

## Emigrant Policies in Latin America and the Caribbean

Pedroza, Luicy; Palop, Pau; Hoffmann, Bert

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# Emigrant Policies in Latin America and the Caribbean

LUICY PEDROZA  
PAU PALOP  
BERT HOFFMANN

G I G A

German Institute of Global and Area Studies  
Leibniz-Institut für Globale und Regionale Studien



FLACSO  
CHILE

FACULTAD LATINOAMERICANA DE CIENCIAS SOCIALES (FLACSO-CHILE)  
AND  
GERMAN INSTITUTE OF GLOBAL AND AREA STUDIES (GIGA)

# **EMIGRANT POLICIES IN LATIN AMERICA AND THE CARIBBEAN**

Luicy Pedroza, Pau Palop and Bert Hoffmann

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# INTRODUCTION

## **The Rising Importance of Emigrant Policies**

Nowadays, the experience of moving to another country differs in many respects from the past. Despite the distance, the possibilities for remaining in contact with places of origin make it possible for emigrants to regularly communicate with their loved ones, finance their family undertakings through remittances, donate money to their hometown through associations, and even participate in home elections. These so-called “transnational” engagements of migrants, which presuppose simultaneity of involvement in more than one nation-state are nothing new. Moreover, today we speak about trans-local engagements, which link mostly localities and do not necessarily pass through central nation-state institutions. Yet, it is obvious that many of these connections involve daily person-to-person contact, and are possible thanks to Internet communications and the impulse that international trade and travel have received worldwide in the last decades. What is less obvious, and is the very matter of this book, is that the states of origin get deeply involved in setting the framework for those engagements. Thus, emigration no longer means an abrupt disconnection with the state of origin and this is partly due to the latter’s efforts to remain connected to its emigrants. This is still remarkable when viewed through the lens of the recent past.

The engagement of states with their citizens abroad has broken taboos in at least two important ways. Until not so long ago, states considered emigration a loss of their citizens for the polity, akin in many cases to treason and equivalent to disfranchisement in practice. This lack of engagement was not only the result of a world of exclusive and even antagonistic political loyalties (especially during the Cold War), but also reflected a fear of violating sovereignty norms when reaching out to populations within the territories of other states. Today, in contrast, states reach out to people who have emigrated and explicitly enfranchise them. Beyond their novelty and their taboo-breaking character, the new policies by which states seek to extend and maintain linkages with emigrants are important to observe because they are a concomitant phenomenon to a more globalized world, where movement and multiple allegiances are apparently more tolerated and even encouraged. It is relevant to see whether this really is the case and if so, under what terms do states allow this to happen. If emigrated nationals keep their citizen rights, under which terms can they exercise them at home? If they are eligible for health-care provided by the state of origin, how is that service different from the service enjoyed by resident (i.e. non-emigrant) citizens? In countries with high emigration, are emigrants appreciated as a constituent part of the polity? Do emigrants have a direct say in the very institutions that are supposed to serve them? In which quality are emigrants represented in their state of origin? Do

they have the vote, and if yes, is it on the same terms as residents? Are there any other channels for their representation? How do states of origin try to aid their emigrants to live more fulfilling transnational lives?

During the last decade, more and more studies have dealt with the different policies by which countries around the world seek to engage emigrants in their economic, social, and political life. Studies on the engagement policies of states of origin with their emigrants differ in the range of cases they cover; the number and kinds of policies they consider relevant; and, most significantly, in the theoretical insights they apply.<sup>1</sup> The hypothesized reasons for the development of these emigrant policies (also known as “diaspora policies” or “diaspora engagement policies”) are many; from logics of population control that transcend borders, to using emigrants as a foreign policy lobby in their countries of residence, etc. Some attempts at explanation rest on a shaky foundation of either methodological nationalism -a much dreaded practice in the transnationalism literature since its beginnings<sup>2</sup>- or of classic realism in International Relations, attributing clear unity and intentionality to the state. Despite these risks, however, many profound studies have shown convincingly in the last years that the state does play a key role in innovating new forms of establishing membership with emigrants and in encouraging and modeling the transnational action of migrants.<sup>3</sup>

Research on emigrant policies has attempted lately to develop typologies either deductively around theoretical models of citizenship;<sup>4</sup> or inductively after original data gathering for many cases and applying statistical techniques.<sup>5</sup> Still, this burgeoning literature has skipped a basic step prior and perhaps concomitant to theoretical development: a comparative stock-taking of emigrant policies. What the studies mentioned above have done is to survey and observe emigrant policies from the perspective of well-founded theories, already hypothesizing the reasons for why they exist, before having an ample

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1 Østergaard-Nielsen, “The Politics of Migrants’ Transnational Political Practices”; Østergaard-Nielsen, “Sending Country Policies”; Burgess, “Unpacking the Diaspora Channel in New Democracies”; Koslowski, *International Migration and the Globalization of Domestic Politics*; Lum et al., “Diasporas, Remittances and State Fragility”; Gamlen et al., “Explaining the Rise of Diaspora Institutions”; Iskander, *Creative State*.

2 Schiller, Basch, and Blanc, “From Immigrant to Transmigrant”; Levitt, DeWind, and Vertovec, “International Perspectives on Transnational Migration.”

3 Lafleur, “The Enfranchisement of Citizens Abroad in a Comparative Perspective”; Smith, “Migrant Membership as an Instituted Process”; Naujoks, “India and Its Diaspora. Changing Research and Policy Paradigms”; Delano, “Immigrant Integration Vs. Transnational Ties?”; Ragazzi, “A Comparative Analysis of Diaspora Policies.”

4 Bauböck, “Towards a Political Theory of Migrant Transnationalism.”

5 Ragazzi, “A Comparative Analysis of Diaspora Policies”; Gamlen, “Diaspora Institutions and Diaspora Governance.”

view of the emigrant policies that could exist across diverse fields of public policy from a more general perspective. We think that before we apply a theoretical lens, thereby reducing our field of vision, it is imperative to develop a rigorous conceptualization of emigrant policies and to conduct a broad, yet structured survey of the emigrant policies that are indeed adopted in a region. Such is the aim of this book.

The “Politics beyond Borders: The New Dynamics of Emigrant Politics and Policies in Latin America” project, conducted by our small team at the German Institute of Global and Area Studies, has gathered information about a wide range of emigrant policies in Latin America and the Caribbean. This region is perfect to develop such a survey because it is a region where some of the most expansive emigrant policy trends are observable: there are states potentially bidding for more nationals as they reach out to people who are not currently their nationals, but who, on the base of their ancestors, could potentially make nationality claims; there are states that reach out to their emigrants regardless of whether they have travel documents or not, and whether they arrived at their destination or are still in transit.

Studies focusing on Latin America and the Caribbean have shown that this region is a space for experimentation and innovation regarding emigrant policies.<sup>6</sup> By covering 22 cases from this region, this book effectively takes stock of emigrant policies across countries that have not only different socioeconomic and political current situations (despite their shared legal and historical traditions), but also very different migrant profiles. In this book we include countries of net immigration, such as Costa Rica; countries of net emigration, such as El Salvador; and also cases characterized by quite complex migration profiles that include significant flows of refugee, transit, and return migration, such as Colombia or Ecuador. The cases we cover have different profiles as states of origin: from diaspora communities formerly characterized by a strong exile component, as in Argentina, Chile, and Cuba; to those characterized by flight from armed conflict, generalized violence, and poverty, such as Colombia or El Salvador. Their emigrant populations of these countries are also distributed quite differently in the world: from those very disperse as Uruguayans, to those quite concentrated in one country, as Central Americans in the USA. More importantly, by covering a whole region almost in its entirety, we also take into account many cases ignored so far, taking stock of a wider range of emigrant policies beyond the “usual suspects”

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6 Hoffmann, “Bringing Hirschman Back In”; Délano, *Mexico and Its Diaspora in the United States*; Délano, “The Diffusion of Diaspora Engagement Policies,” December 2013; Margheritis, “‘Todos Somos Migrantes’ (We Are All Migrants)”; Margheritis, “Redrawing the Contours of the Nation-State in Uruguay?”; Margheritis, *Migration Governance across Regions. State-Diaspora Relations in the Latin America-Southern Europe Corridor*.

that captured most attention in the literature, such as Mexico. Our compendium of policies in Latin America and the Caribbean will thus expand our field of vision of emigrant policies and show the multiple dimensions along which states have expanded their reach abroad, how they regulate interactions between, and linkages to the places that emigrants call their home, wherever “home” is. Our wish is that this effort can be further adapted and expanded in the future to cover other regions as well.

### **Main Contributions of this Book**

This book brings the advances made in the comparative study of emigrant policies across regions<sup>7</sup> to a region for which a study of a comprehensive comparative scope has been lacking. Undoubtedly, our effort stands on the shoulders of pioneer studies on emigrant policies in some Latin American countries that relate mostly to economic and political dimensions.<sup>8</sup>

This book connects two research approaches that so far have constituted the main sources of studies on emigrant policies. The first analyzes emigrant policies adopted by a single country in depth, or small groups of countries providing insights to understand the characteristics of the emigrant policies adopted and the dynamics underlying the emigrant “policy process” (from the introduction of the issue in the political agenda of the state of origin to the implementation of the policy) and the politics that push this process forward, e.g. which actors proposed policies, which actors blocked them, their negotiations, etc. This line of research, which tends to be qualitative, has deepened our knowledge of the development of emigrant policies, even concretely on Latin American cases.<sup>9</sup> Thanks to research of this kind, we have learned about the interrelations between actors and processes in the develop-

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7 Gamlen, “Diaspora Engagement Policies: What Are They, and What Kinds of States Use Them?”; Collyer and Vathi, “Patterns of Extra-Territorial Voting”; Rhodes and Harutyunyan, “Extending Citizenship to Emigrants”; Ragazzi, “A Comparative Analysis of Diaspora Policies.”

8 Lafleur, “Why Do States Enfranchise Citizens Abroad?”; Lafleur, “Surgimiento y desarrollo del voto en el exterior.”; Calderón Chelius, “Votar en la distancia.”; Calderón Chelius, “Los superhéroes no existen.”; Escobar, “Extraterritorial Political Rights and Dual Citizenship in Latin America”; Escobar, “Immigrant Enfranchisement in Latin America”; Vonk, “Nationality Law in the Western Hemisphere.”; Emmerich and Alarcón Olguín, “Sufragio transnacional y extraterritorial...”; Emmerich and Peraza Torres, “Sufragio Transnacional. Experiencias Latinoamericanas ...”; Díaz-Briquets and Pérez-López, “Refugee Remittances”; Palop-García and Pedroza, “Beyond Convergence.”

9 Délano, Mexico and Its Diaspora in the United States; Ramírez, “Migration Policy in the New Ecuadorean Constitution Toward the Formation of a Transnational Nation-State”; Margheritis, Migration Governance across Regions. State-Diaspora Relations in the Latin America-Southern Europe Corridor.

ment of these policies; for example, whether the demands of an organized diaspora or political elites came first. The second type of research concentrates on comparative studies that register the adoption of a set of emigrant policies in a large-N sample of states, providing a systematic framework for their study.<sup>10</sup> This line of research has allowed researchers to increase the level of abstraction towards the development of types of state approaches to emigrant or diaspora policies.

Our book draws upon the knowledge generated by these previous lines of research by providing qualitative information about multidimensional emigrant policies across quite a large number of cases. For every country, we describe which emigrant policies have been adopted and what are the characteristics of those policies. For instance, when recording the existence of advisory board of emigrant affairs, we provide information regarding the electoral system and competences. Registering in-depth “raw” information about the countries selected allows us to overcome the limitations of previous large-N studies, such as the use of over-simplistic measures for information that remains opaque when only the final coding is presented. At the same time, by comparing 22 countries through a systematic data-collection and a straightforward analytical framework, we are also able to overcome the limitations of previous small-N studies that tended to highlight and focus on different policies for each case.

We hope that our efforts will contribute to analyses that tackle the ‘why’ questions by factoring in different independent variables and a longitudinal perspective, but also as a resource to elaborate typologies, and finally to frame/reframe normative questions regarding the logic and principles behind states’ regulation of transnational migrant engagements. We hope that our book will also serve the policy community by providing broad, precise, and transparent information on the emigrant policies of Latin American and Caribbean states. This should allow for evidence-based policymaking, invite cooperation and exchange of good practices across consular services, and even evaluations for separate countries taking this effort as the starting point to keep collecting evidence on policy in the future.

In addition to this, the information provided in this book aims to enhance the transparency of the Emigrant Policies Index (EMIX), developed by our research team at the German Institute of Global and Area Studies over the last two years.<sup>11</sup> The EMIX translates the qualitative information

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10 Gamlen, “Diaspora Engagement Policies: What Are They, and What Kinds of States Use Them?”; Gamlen, “Diaspora Institutions and Diaspora Governance”; Ragazzi, “Governing Diasporas”; Ragazzi, “A Comparative Analysis of Diaspora Policies.”

11 The Emigrant Policies Index presents all the policies designed by Latin American and Caribbean states for their emigrants in the same dimensions covered in this book to get an aggregated measure that can be easily compared across cases, and with the possibility of disaggregating some of them to see relevant variations.

presented in this book into single measures. The data contained in this book will allow scholars working in the future with the EMIX to assess the codification choices made by our team. In this way, codification and quantification will enter the picture after having framed the concepts.

Setting up a common ground for the study of the emigrant policies adopted by the states in our sample has been possible thanks to an intensive exercise of conceptualization and operationalization that we consider to be one of the key contributions of this book. We now turn to those methodological and conceptual contributions.

### **The Methodology behind this Book**

The present book is embedded in a larger mixed-methods research project aiming to provide new insights on how and why states actively adopt policies to engage with their citizens abroad, and how this interaction impacts the politics and policies of the countries of origin. The first, key question of this research project was purely descriptive: How do states in Latin America and the Caribbean reach out to their emigrants? This book is the result of thoroughly answering that first question, which required nothing less than a comprehensive survey of emigrant policies.

To do that survey, however, we needed to define emigrant policies in a way that was broad enough to cover as much of the phenomenon as possible, yet concise regarding its attributes; in other words, a concept with proper connotations and denotations.<sup>12</sup> In particular, to make the concept truly useful for further researchers, we needed to define the identifying positive characteristics of emigrant policies but also the negative ones, especially with regard to the similar concepts of migration policy and emigration policy. This conceptual effort developed at the same time as we began to preliminarily survey and pilot data collection. This simultaneity assures that we collect as many emigrant policies as possible under our definition, and also trained us in observing emigrant policies under the same understanding. The detailed process of this concurrent development of definitions and a data collection tool merits some more lines, as it might be of methodological worth.

To accomplish the first goal of reaching a definition of emigrant policies, we relied on the work done by pioneers of the literature, especially on cross-case comparative studies, but also on deeper case studies, as portrayed above. Next, we completed a thorough review of neighboring policy fields that are connected to the topic of emigrant policies, such as immigration and immigrant integration policy (e.g. Migrant Integration Policy Index, MIPEX), to consider dimensions of public policy that would likely also target emigrants. When we arrived at a preliminary list of policy dimensions under which we

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12 Gerring, "What Makes a Concept Good?" 357.

could collect emigrant policies, we consulted two leading experts in the field on their opinion about missing categories. Next, we developed a first version of a data collection tool (a questionnaire we would fill out when collecting information) and piloted it on three cases with different migration profiles. Our experience with this pilot collection led to dropping some dimensions that were empty and adding new ones that we had not considered previously. Once we had a final version of the data collection tool (included for purposes of transparency in the Appendix of this book), we embarked on the task of training a small group of researchers of different nationalities to develop expertise in the general topic and help us collect the data. In contrast to other collection efforts that rely on experts (paid or unpaid), we relied on a small team that learned together to collect data from similar sources and understand the questions in the data-collection in the same manner. Our team worked together in the same place over a long period: over 20 months spanning from June 2014 to January 2016. In this period, we consulted experts (mostly consular personnel in embassies of the countries we studied or bureaucrats in the state of origin) only to clarify issues and to verify that the policies we had found were still valid. This system assured high coherence in the process: We not only had shared standards of what we were collecting, but we had the chance to hold three workshops along the process to discuss doubts; for example, when the data did not seem to perfectly fit the questions or seemed to fit several.

The next steps were the systematization of data and their ordering into categories to be reported in country reports (the chapters of this book). To properly reflect the simultaneity of this data-collection method with the process of conceptualization, we proceed, in the next subsections, to introduce the definition of emigrants, policies and emigrant policies; characterize the data, and the emigrant policy dimensions we found. The definitions are not perfect, but they are our effort to find a balance between, as Sartori put so eloquently, “crude logical mishandling and logical perfectionism.”<sup>13</sup>

### **The Key Concepts in this Book**

*State of Origin/Home Country (SO)*: these terms allow us to refer generally to the countries that we study as the generators of policy and the authorities that can be held responsible for them.

*State of Reception/Residence (SR)*: by this term we mean the authorities under which emigrants live, however short or long their residence may be.<sup>14</sup>

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13 Sartori, “Concept Misformation in Comparative Politics,” 56.

14 Another possible term, “host,” implies a stronger intentionality on the side of the receiving state than the term “receiving” does. We also prefer “receiving” over “destination” because we are less interested in the final personal aim of the migrants than on the jurisdiction where emigrant policies are supposed to apply.



*Emigrant:* by emigrants we mean persons who have left the territory of their state of origin, be it because they reside abroad or because they are in transit, with or without travel documents, and also those who, by virtue of their belonging to an emigrant community (e.g. because of close biographic connections) could make citizenship claims, even if they are not presently citizens (i.e. second and third generation descendants). With such an extensive definition, we resist relying either on legal status (illegal/ legal), or on subjective intentions (will to stay abroad/ to return) as determinants of who is an emigrant, even if an element of the latter undeniably remains in some cases. We do not intend to include tourists or exchange/international students and other groups of people who are deliberately out of their country of origin for a definite and mostly predetermined short period. When we apply the word ‘emigrant’ as an adjective to ‘policies,’ ‘politics,’ or ‘communities,’ we mean to include those that might or might not have a distinct identity abroad, might be concentrated or not in one country, and without considering how long it has been since they stopped being residents of their state of origin.

*Emigrant policies:* by emigrant policies we mean policies that states develop specifically to establish a new relationship towards, or keep links with, their emigrants. We consider these emigrant policies as those that surpass the traditional interpretations of consular tasks as defined by the Vienna Convention on Consular Relations. We exclude from this definition –and from our data collection and reporting - immigration policies in states of residence, and emigration policies of the states of origin. To put it another way, emigrant policies are a subset of migrant policies (policies that consider emigrants and immigrants) and are different from emigration policies, although there might be slight overlaps, such as when the same policy regulates the manner of exit of emigrants by making the kind of exit a precondition of the enjoyment of emigrant policies (e.g. in Cuba). To determine which migrant policies may properly be understood as emigrant policies, our focus is on the policies’ demographic target; that is, they must be designed and developed towards people who we consider emigrants. This means that unless immigration policies in the receiving countries or emigration policies of the origin country prove central and connected to understanding the development of emigrant policies, they remain tangential to our research aims. In general, we include general information about migration profiles (including immigration) only in the introductions to the country chapters, when they are relevant to the context of emigrant policies.

*Policy:* we understand policy to be a course of action usually, though not necessarily (e.g. as in the paradoxical instances when case experts argue there is a “policy of no policy”), the result of an authoritative decision-making process. While some researchers consider that programmatic rhetoric is also policy (as when policies are derived from discourse), we try to find evidence

of *concrete* consequences in the way in which particular issues are guided and governed. For reasons of feasibility (given our time and financial constraints) and transparency, we focus on policies that are *endorsed* (and can be traced) *in official documents* (laws, decrees, regulatory, and programmatic documents) and on *national* policies that constitute a directive of actions foreseen to be implemented by consulates (even if these are not planned for implementation in all consulates). For some federal cases, we included information on subnational emigrant policies merely for purposes of illustrating the range of variation in a multilevel perspective. However, this information is in no way comprehensive. In the case of policies administered by consulates, we collected data on those that have some general character (which is the rule for those dictated from above in the central consular hierarchy) or at least that were applied in several consulates (which left room to observe policies that could be arising bottom-up from consulates and diffused across local levels).

We try not to conflate policy outcomes and policy outputs by focusing on binding policies and laws that are in force. Traditional public policy studies look at the policy cycle basically in terms of design, enactment, content, and implementation. We were especially interested in the first three, not on implementation or the larger consequences of policies.<sup>15</sup>

### **Challenges, Limitations and Caveats regarding Data in this Book and their Interpretation**

The most important caveats relate to the timeframe of collection and the sources of authority that we attribute to policies; two issues that are connected in some ways.

We were interested in learning how states develop linkages to their emigrants through policies. However, we collected data only within a limited period (policies in place as of 2014-2015, with some exceptions that we followed until 2016, in the case that the policies had been announced but were pending final sanction/publication) for all our cases. This poses the challenge of determining whether these policies can be called state policies, which implies that they have earned a place in the structures of the state, instead of being merely government policies. Without a longitudinal perspective, this is a problem that cannot be fully solved. Still, taking this limitation into account, we found two ways to address this problem. First, regarding the kind of policies, we gathered information on policies in force that seemed to be either anchored in practice by law, or which had been applied as routine already. This means that we excluded policies that were one-time events. We looked for policies that are part of stable, long-term strategies, and that, if not strictly permanent, are at least meant to be recurrent and therefore likely to follow

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15 For a similar take, see Helbling et al., “Measuring Immigration Policies.”

a standard path towards institutionalization. Given the limited timeframe of data collection, this does not completely exclude policies that are recently adopted and backed by official documents but may disappear with new governments, and thus only partially solves the problem of determining whether they are meant to become state policies or not. Time will have the last word about this and is the strongest reason why we invite scholars to take up the framework proposed here and to continue collecting data about emigrant policies. The second, more inventive strategy to address the issue was to collect information on the bureaucratic structures that states have created in order to anchor them as a policymaking area in their public administration. We understand that this will help us not only to get an idea of the reality of emigrant policies beyond official documents (i.e. as a proxy for the very chance of their implementation), but also to get an idea of the capabilities for their institutionalization beyond a particular administration.

Related to this, we want to address here the critique that emigrant policies are mostly symbolic, by which it is meant that these policies mainly are designed to send a message or represent a new relation with emigrants, rather than substantially change anything in the relation between states and emigrants. For us, it is clear that the sheer variety of emigrant policies that we document in this book (i.e. their various dimensions, and their variety within dimensions) demonstrates that even if that were the case, the kind of message states intend to send is noteworthy: Seemingly, it has become an issue of high importance to states to represent such relations in a variety of different ways. Beyond that, however, we disagree that emigrant policies are purely symbolic: even if they have still to survive the test of time and the passage of governments, the policies we describe in this volume represent too great an investment in terms of human and financial resources as to be called symbolic. Moreover, our reason to reject calling emigrant policies altogether symbolic is that there is also a symbolic aspect of emigrant policies, directed specifically to strengthening feelings of belonging between the society in the state of origin and emigrants around the world.

Another two interconnected caveats relate to the limitation of a remote data collection to make sure that all policies are covered and that the quality of the sources is consistent. As the data was collected by our team in Berlin, we only had access to evidence that could be found via Internet. We cannot rule out that policies exist that may perhaps be even documented officially, but about which there is no report in online sources (no website, no news on it, no cross-reference to other online documents, no appearance in legal databases or diaries) and thus could not be detected by our team. We are aware that this might be the case in some smaller countries included in our book that do not invest heavily in their internet presence. Related to this, we aimed to collect data from sources in the following order: constitutions, legal data-

bases (to find secondary laws), government websites (to find data on bylaws, internal regulations, and policies), official institutional websites of other organizations, academic secondary sources, news reports, NGO pages. For some smaller countries, however, the limitations of their own state online presence (e.g. outdated or non-working websites, inaccessible primary legal sources) meant that we had to rely on sources at the end of our list. We compensated this lesser reliability of the sources by consulting and confirming our information with consular personnel by phone or personal interviews.

Finally, a caveat about the comprehensiveness of our effort is in line. We aimed to reach a balance between breadth and depth of data collection. In determining this balance, we gave priority to providing an account that is systematic and thorough, but not always exhaustive for each case. Particularly, our volume aims to strike a balance offering the advantage of a systematic framework for comparison between all the cases covered and the breadth of categories and raw information within a framework that is manageable for later inter-regional comparisons. It is relevant to note this because there is great variation in the number of emigrant policies across cases. This means that there was plenty of information from all kinds of sources for some cases, such as Mexico or Colombia, which have not only one, but several policies under each dimension and sometimes even multilevel. In others, such as Panama, there was considerably less information to collect. Compared to the richness and depth of some case-studies on Mexico, our volume presents abridged information on its multilevel emigrant policies, but compared to the lack of studies on Panama, our volume presents plenty of information that so far has been ignored. We are well aware that subnational polities are not only active in developing emigrant policies, but can even be the pioneers of many important emigrant policies that only later are adopted at the national level.<sup>16</sup> This is especially the case in federal and highly decentralized countries such as Mexico the sub-national governments have wide legal competencies to regulate even their electoral laws. We are also aware that many political communities develop transnationally on levels that escape national administration, regulation and government, constituting “translocal” politics across cities, towns and other localities.<sup>17</sup> Moreover, we are aware that particular consulates may have a considerable leeway in deciding how to best serve citizens abroad, and that this may translate into very creative ways to implement policies, use their budgets for innovative services and actions that are decided upon and provided at the local level.<sup>18</sup> In these regard the top-down focus on

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16 Smith, “Migrant Membership as an Instituted Process.”

17 Sassen, “The Global City: Strategic Site/ New Frontier.”

18 Torres Mendivil, “Morfología, tradición y futuro de la práctica consular mexicana”; Délano, “The Diffusion of Diaspora Engagement Policies,” July 2014.

central directives of consular work is a limitation of our study regarding these developments.

### Outline of the Book

The structure of this book is simple. After this introductory chapter, the reader will find 22 chapters for each one of the countries covered, in alphabetic order. Chapters vary in length, reflecting the policies we found under each dimension. Each of the chapters has a short introduction that contains information about the migration profile of the country, with special focus on the emigrant population, the recent history of emigrant policies, and a general characterization of the case in terms of the dimensions of emigrant policies. Each chapter ends with its own list of primary legal references and other references. We then move on to describing which policies could be found under each of the dimensions we consider. Finally, the book closes with an Appendix that contains our data collection tool.

Having set our definitions, caveats, limitations, and the outline of the book, we can present the characterization of the 10 dimensions of emigrant policies, and the 2 dimensions of structures for emigrant policy administration we found to exist across Latin America and the Caribbean (Table 1).

### *Emigrant policies*

*Citizenship* is the central dimension by which states reach out to their emigrants: They are the channel through which states offer emigrants formal membership in the national community and regulate the exclusivity and conditions of that membership. Under this category are the policies designed to allow, encourage, or forbid the formal acquisition of dual or multiple nationality by emigrants, as well as regulations regarding the bundle of rights and duties of citizenship (if it is differentiated from the “status” dimension of citizenship) they enjoy despite their absence from the national territory, despite their naturalization elsewhere, or despite being naturalized nationals of the state of origin (i.e. not nationals by birth).<sup>19</sup>

Closely connected to citizenship, and subordinate to it, *franchise* constitutes a complex dimension of emigrant policies. These are voting rights (passive and active) that non-resident nationals may exercise. The franchise of emigrant citizens is not only quite different from the franchise rights of resident citizens, but can be quite different across cases that formally allow their citizens abroad to participate politically. The differences are in the type of elections in which they may vote, the conditions for voting, the registration methods (especially regarding the differences to those of resident nationals),

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19 Hoyo, “Apertura externa, exclusión interna: el nacionalismo revolucionario y los derechos de migrantes, mexicanos por naturalización, y dobles nacionales en México.”

and the specific mode of representation (how are votes counted in the electoral results and how are they converted into seats).

Again connected to the possibilities to participate politically from abroad, but different from the mere regulation of franchise rights, a different dimension of policies is evolving regarding the *regulation of political competition*. Although the degree of involvement of emigrants in the formal channels of participation of the state of origin is best and most directly observable through their access to suffrage, the electoral regulations for their voting do not tell the whole story. To understand their participation, it is necessary to see how the state regulates the reach of political competition of parties beyond borders, particularly whether they are allowed to recruit members, organize assemblies with emigrants, and campaign abroad (and with which funding).

Giving emigrants a formal voice in politics through extending them formal political rights expresses serious attempts of states to include their voices in policymaking. However, there is also a dimension of policies being developed to include their voice in forums that vary in degrees of formality, represent emigrants according to different criteria, and that are meant to be close to sites of policymaking. For lack of a better term, we call this *institutional participation* in this book. These bodies have assumed three forms according to the level in which they are set: at the national level, located abroad (often connected to the consulate jurisdictions), or combining these two. Furthermore, these bodies have varying competencies and autonomy.

**Table 1: Emigrant policy dimensions covered in this book**

DIMENSIONS	CHARACTERISTICS
Citizenship	Distinction between nationality and citizenship exists or not
	Dual nationality (allowed for whom, until which generation, tolerable for all countries or only some, tolerable for naturalized citizens or not)
	Nationality loss (losing nationality if residence abroad and whether it is different for nationals by origin or naturalized citizens)
	Citizenship loss (citizen rights suspended, restricted partially or absolutely if residence abroad and whether there is a difference for dual national citizens)
Franchise/ Suffrage	Active voting rights for emigrants (for which elections, conditions for voting, voting methods available, registration method, specific mode of representation)
	Passive voting rights (for which elections, under which mode of representation)
Regulation of political competition	SO regulation of party offices, campaigns (financial support) abroad, and party membership open for emigrants or not
Institutional participation	Consultative bodies to represent emigrants at national and consular level (existence, rank, composition, leadership, force and mandate)

External administration: Consular network, new consular functions and extended services	Expert, intensive judicial consultancy, financial consultancy, psychological consultancy
	Size and dispersion of consular network
	Health and education services in consulates
	Extension of consular services beyond regular office/hours (mobile consulates, weekend opening hours, online consulates)
Home administration	Bureaucratic bodies in charge of emigrant policies, rank, functions
Economic policies	Government programs to attract remittances (improving banking channels, controlling fees, co-development schemes, programs for private investments)
	Return policies (clarity and speediness of a process of recognition of qualifications, tax exemptions for return, re-integration programs)
	SO Brain gain programs for emigrants and brain circulation networks
Economic policies	Military service (if exists, the difference vis-a-vis resident citizens)
	Social service (if exists, the difference vis-a-vis resident citizens)
	Taxes (obligation to declare despite non-residence, special taxes)
Obligations	Military service (if exists, the difference vis-a-vis resident citizens)
	Social service (if exists, the difference vis-a-vis resident citizens)
	Taxes (obligation to declare despite non-residence, special taxes)
Cultural policies	Cultural centers within consular network
	Cultural programs for emigrants
Exit and transit policies	Discouragement of emigration (campaign, restrictions)
	Campaigns about rights of emigrants and for a safe transit
Social policies	Access to healthcare system in the SO (if it exists, and whether there is a different treatment vis-a-vis citizen residents)
	Programs to facilitate access to SO education system
Symbolic policies	Awards for emigrants (regular or eventual)
	Reference to emigrants in constitution
	National level conferences to discuss contributions of emigrants
	Communication campaigns to reinforce sentiment of belonging
	National day devoted to emigrants
	New symbolic territorial entity

Source: Own creation. Summary of the 12 dimensions and their main characteristics.

Some of the most studied emigrant policies relate to an economic policy dimension, as states develop policies to foster the economic ties of non-residents with the state. The best studied *economic policies* in this dimension are those that foster and facilitate remittance sending, but also include policies that foster investment schemes for emigrants from abroad, or co-investment schemes where emigrants and the state of origin each contribute a part for projects of infrastructure and community development. There is a vast assortment of policies regarding remittances alone. States open special banking



channels for emigrants to remit their money from locality to locality and avoid the high fees charged by the cash-to-cash companies. There is a rich literature on the use of remittances, their effects on development, political behavior, social, and gender relations. This literature shows a mixed picture: Remittances do manage to change the social status of emigrants' households, provide them with basic nutrition and education to break cycles of poverty and political dependence, and may create financial security. However, the effects on gender and parental relations, inequality in the local context and sustainable development in general are very limited, and may be negative.<sup>20</sup> This is probably why several states of origin have devised programs to stimulate the transfer of remittances for investment purposes: Emigrants, through associations where they meet with other emigrants from their same places of origin, donate remittances for co-development (mainly infrastructure) programs, and sometimes make up to seven times the budget of local governments for public works.<sup>21</sup> What is often ignored is that there are other quite important emigrant policies that have primarily an economic dimension, such as return policies. Beyond money, emigrants can make a difference in the socio-economic fabric of their states of origin just by coming back and applying/sharing their know-how with others, so the existence of policies that incentivize return is important. Moreover, the skill acquisition of emigrants is more likely to unfold productively if there are schemes in place that allow them to put their skills to use in economic activities readily upon return, through job placement policies or recognition of titles and professions. We take these into account as well. Furthermore, states may tap into the skills of their emigrants without even coaxing them into return by creating networks that foster the transmission of knowledge to institutions in the state of origin, so called "brain-circulation" programs. Across the states of Latin America and the Caribbean two organizing models of brain-circulation programs are observable: those that are designed, administered and led by state bureaucracies, and those that have been created by state initiatives but the administration of which is relegated to "users" in the forms of networks. The self-enterprising logic of the network model has resonated well in Mexico, Central America, and Chile.

Just as some rights of participation in the policy are extended to emigrants through the franchise, some obligations in the policy may follow them

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20 Adida and Girod, "Do Migrants Improve Their Hometowns?"; Newland, "Beyond Remittances: The Role of Diaspora in Poverty Reduction in Their Countries of Origin"; Goldring, "Family and Collective Remittances to Mexico"; Conway and Cohen, "Consequences of Migration and Remittances for Mexican Transnational Communities"; Duany, "To Send or Not to Send"; Lum et al., "Diasporas, Remittances and State Fragility"; Fajnzylber and López, *Remittances and Development. Lessons from Latin America*.

21 Orozco, "Tendencias futuras de las remesas en América Latina y el Caribe."

wherever they go. Very few countries in the world oblige their emigrants to file tax declarations, fulfill military service or social service if they reside and earn their living somewhere else. Moreover, Latin American and Caribbean states have few resources to enforce obligations outside their territorial boundaries. Nevertheless, some have found a way to promote the fulfillment of reduced military and social service, in case emigrants wish to return, and probably also to emphasize the civic contract with emigrants in similar terms to resident citizens.

Emigrant policies also have a cultural dimension. The model of “cultural institutes” à la *Institut Français*, *Instituto Camões*, or *Instituto Cervantes*, was mostly a creature of imperial design of former colonial powers promoting their culture and language. They are rare in former colonies, but something similar exists under the guise of “cultural houses” (e.g. *Casas ecuatorianas*) or “institutes of [X country]” (e.g. *Institutos de México*). These are usually within or contiguous to embassies, and even receive partial funding from the states of origin. Such institutes have a mixed target population, and do not only target emigrants, thus do not fall strictly within our definition of emigrant policies. However, some states of Latin America and the Caribbean also develop emigrant policies that are specifically *cultural policies* in the form of programs conducted by its consular network and sometimes channel to those houses or institutes, as in Brazil.

Connected to the possibilities of return, and to the very right to migrate, it is important to remember that emigrant policies are not the same as emigration policies. The latter regulate the conditions of the prospective outflow of people who are still in the territory; the former, the rights, duties, and participation rights of emigrants who are already abroad. However, in a number of cases in Latin America, especially in Central America, there are some *exit and transit policies* that target emigrants (for example, because they are already out of the borders of the state of origin in transit) to “accompany” them in their journey to make it safer. These take the form of communication campaigns to inform citizens in the country, in transit, and in destination countries about their rights and duties as migrants and about safe routes and emergency resources.

Some of the most impressive new developments in the field of emigrant policies have taken place in the wide field of what in the trans-Atlantic and European literature would be considered welfare state policies. It is well known that Latin America has followed a different route, and thus experts speak of “welfare regimes” rather than welfare states as more appropriate to describe the configurations of welfare found in this region.<sup>22</sup> With all caution taken regarding this, we still see clearly a significant extension of *social policies* for emigrants, which extend into the realms of health, education and employment benefits (mainly pensions), that apply to emigrants in the same

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22 Franzoni, “Welfare Regimes in Latin America.”

terms as to residents (administered by consulates) or to emigrants only in a supplementary/residual logic. We especially follow the national regulations that allow emigrants to contribute remotely or be registered for the first time in the social security systems of their countries of origin. Complementarily, we note whether they are signatories of bilateral or multilateral conventions on social security. The broadest of these merit being mentioned here.

Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Paraguay, Peru, the Dominican Republic, Uruguay, and Venezuela are so far the Latin American signatories of the Multilateral Ibero-American Social Security Agreement with Spain and Portugal. This is a fundamental tool for the protection of migrant workers and their families, which builds on the existing social security regulations of each country regarding retirement, pension, work accidents, illnesses and disabilities due to work-related reasons, such that periods of contributions made in the countries involved also count in the others. This agreement serves as a minimum normative basis for workers of the signatory countries, so that if there are more generous bilateral agreements, they apply first.<sup>23</sup> For the Agreement to be fully effective, though, countries must not only ratify it, but also the Implementation Agreement. Until now, only Bolivia, Brazil, Chile, Ecuador, El Salvador, Paraguay, and Uruguay have done this. On the other hand, Cuba, Guatemala, Honduras, México, Nicaragua, and Panama are not signatories of this Agreement.

Moreover, MERCOSUR has its own Multilateral Social Security Agreement, signed in 1997 by Argentina, Brazil, Paraguay, and Uruguay. According to it, the norms that apply to workers' rights and health in one country towards its nationals should apply identically to the workers from other MERCOSUR countries.<sup>24</sup>

Finally, some Caribbean countries in this book (Belize, Jamaica, and Trinidad and Tobago) participate in the CARICOM (Caribbean Community) Social Security Reciprocal Agreement that harmonized social security legislation of the member states of CARICOM to facilitate movement within the CARICOM single market. Workers and their dependents that are registered in one of the ratifying Member States are entitled to benefits paid by the social security schemes in the countries in which they have contributed, with some limitations (only contributory pensions for invalidity, disability, old age, and death are covered).<sup>25</sup>

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23 Revista Seguridad Social Activa - Internacional, "El Marco Iberoamericano de Protección Social."

24 Consejo del Mercado Común, *Acuerdo Multilateral de Seguridad Social del Mercado Común del Sur*.

25 CARICOM, "Social Security in CARICOM."

As we mentioned above, an important reason to avoid characterizing emigrant policies tout court as symbolic is that there are some specifically *symbolic policies*. This symbolic dimension captures the formal steps that states take towards the rehabilitation/acclaim of emigrants' contributions to the state of origin. Beyond a general rhetoric that extols the virtues of emigrants before the resident population, symbolic policies that merit such a name can be quite tangible. They take forms such as: declaring specific days to commemorate emigrants; organizing conferences at national levels to discuss their contributions; including a specific reference to emigrants' contribution in the constitution; and creating awards for emigrants or new symbolic special entities that include them beyond the districts and provinces that formally constitute the state.

In order to make emigrant policies plausible generally as something beyond paper, states must upgrade their bureaucratic instruments and create implementing capacity in order to extend all of these policies as to cover people who are spread around the world. These are the reasons why we consider two dimensions of emigrant policies that are related to administration.

### **Taking into Account the Administration of Emigrant Policies at Home and Abroad**

States have created a wide range of new bodies in their bureaucratic structure to administer emigrant policies. A basic distinction to be made is whether these new bodies are in their external and/or home administrations. Consulates have traditionally been the structure in charge of administering and executing tasks of attention, assistance, and protection of the citizenry of a state beyond its borders. It is important to consider the size and dispersion of the consular networks as a basic parameter that should help future researchers in determining whether states have updated these networks to adapt to their emigration trends. But we have established above that emigrant policies, by definition, go beyond the traditional tasks of consular protection. Thus, it is important to see whether consulates have been upgraded to provide new services and capacities to put in practice emigrant policies.<sup>26</sup> This is what

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26 Finally, some Latin American cases—especially federal countries states such as Brazil and Mexico— are clear examples of emigrant policies that are developed in sub-national, even local, levels of government. Sometimes they are adopted by higher levels and harmonized horizontally, but many times they remain as special policies that have a trans-local character, connecting the local communities at origin and destination. As explained above, in this book we focus national-level emigrant policies and this applies as well to home and external administration. There are varying degrees of decentralization in the consular networks across countries, which allow different degrees of policy innovation to be developed by consulates, and which also permit diffusion at the local level across consulates of different states. In other words, we are aware that not all policies developed at the local level ascend to the national or even pass through the center as they spread from local space to local space, even in the destination country.

we mean by external administration. Again, this is one dimension in which Latin American and Caribbean cases figure prominently as pioneers of improvements in consular service administration with the creation of “mobile consulates” and “online consulates”.

It is obvious that consular networks are still always subordinate to central organization by the home state: This is what we call home administration. The main unit in charge of this organization is typically the ministry of foreign affairs, but it is not the only one; ministries such as labor, social and development affairs, or population/migration might also be the repositories of the main emigrant policy units in public administrations. The home administration dimension of emigrant policies captures the overall bureaucratic structure to deal with emigrant policies by creating new units that may vary in rank, task, and autonomy. In Latin America, we find a wide range of structures that present whole networks of bureaucratic bodies: from new ministries, inter-ministerial coordinating agencies, vice-ministries, and autonomous bodies. The complexity of these networks of bodies reveals, on the one hand, issues of authority, and on the other, an increasing division of labor in terms of different stages of emigrant policymaking (design, implementation, and consultation/evaluation). To report on these structures in a comparative framework, we took into account the number of administrative bodies in charge of emigrant bodies, the rank of the body that is mostly concerned with emigrant policies in the public administration,<sup>27</sup> and we differentiated the functions of the bodies between design or inter-ministerial coordination. These bodies may have also some overlaps with consultative bodies. Where that seemed to be the case, we noted it.

### **A Comparative View of Emigrant Policies across Latin America and the Caribbean**

The figure below is an example of the observations that the data contained in this book allows researchers of comparative emigrant policies to make. It presents the “density of policies” and institutions for the different dimensions of emigrant policies through a saturation gradient along a grayscale: the whiter the square, the sparser the corresponding emigrant policy dimension; the darker the square, the denser. While this does not represent any normative evaluation of the quality of policies, it does show the importance that emigrant policies have across different dimensions in different countries. For instance, the gradient indicates that Brazil combines emigrant policies across all dimensions with a particularly dense configuration of policies in the realms

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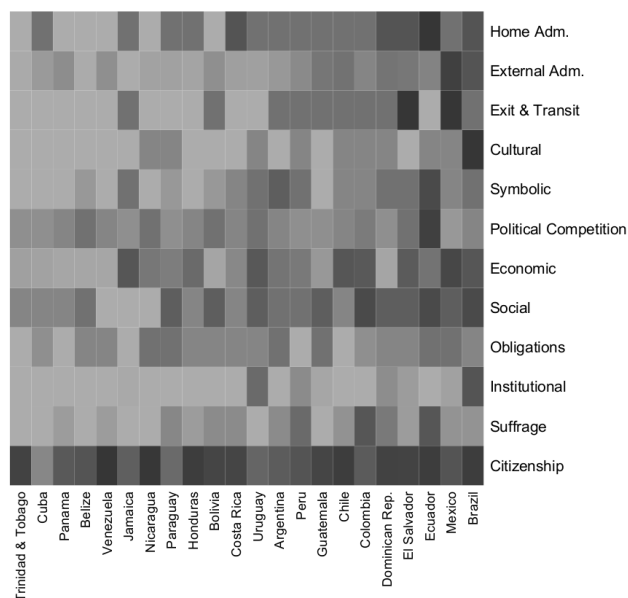
<sup>27</sup> We consider the following order for comparison: 1. Ministries (*Ministerios* or *Secretarías*), 2. Vice-ministries (e.g. *Sub-secretarías*), 3. General Directorates, 4. Directorates. In the case of autonomous agencies, we seek their rank equivalence to this order.

of citizenship, institutional participation, cultural, social, and economic policies. This is accompanied by a strong capacity to implement these policies in its internal bureaucratic structure and through its traditionally large consular network. Mexico comes second, having developed emigrant policies for all areas, but weaker policies regarding the institutional participation of emigrants than Brazil. Ecuador is next, with the strongest development of home administration structures to deal with emigrant policies in the whole region. If instead of countries we look at emigrant policy dimensions (focusing on the horizontal axis), we see that citizenship is the main area in which emigrant policies have developed, surprisingly followed by social policies (which suggests a significant spillover of basic state welfare functions beyond borders) and by special home structures created to administer these. As expected, exit and transit policies are most developed in Mexico and El Salvador, countries where transit migrants' vulnerability is greatest.

### **Policy challenges and lessons for other regions**

Emigrant policies such as those developed by Latin American and Caribbean states over the past years present challenging scenarios for policymaking. The extension of emigrant policies responds to emigrants' claims but it drives new demands, be it for more transparent and more institutionalized participation in the country of origin, for a more coherent approach to emigrants across state of origin agencies, or for the provision of consular services, legal assistance, and social care abroad. Indeed, when policies are clientele-oriented, which is the case with emigrant policies, it is necessary to develop a horizontal or "whole-of-government" sensibility/approach to connect different agencies so that each will identify how it can serve the target group. Moreover, with emigrants, the degree of complexity is higher because policies for emigrants cover dimensions that in domestic politics are usually separated, but which must be interconnected in order to reach populations abroad effectively. In turn, connecting these multiple dimensions of emigrant policies poses challenges for state administrations in order to adequately represent emigrants' interests in the process but also to coordinate the different agencies involved, adjusting their apparatus so as to be able deliver beyond the nation-state's borders and at home, in case of return.

**Figure 1: Emigrant Policies developed by Latin American and Caribbean states**



*Source:* Own creation on the base of the data presented in this book and coded in the EMIX.

With this book, we hope that we have delineated a broad horizon for the further study of the different emigrant policy configurations and their implications. We invite academics and policy experts to take this as an invitation to scrutinize further, in more regions, and to re-collect data along these dimensions in the future. Bearing in mind that the point of view of this research is very state-centric (which was not a matter of normative preferences of the authors, but of a particular contribution to a literature in development), we also invite readers to enrich this perspective by providing a critical view of these developments, and fuller accounts of social initiatives and responses to them. Beyond the academic and policymaking world, we wish that emigrants and civil society activists who work on migration issues in Latin America and the Caribbean will also be among the readers of this book. The rich catalogue of policies in it might help them to put their cases in perspective and inform their agendas. Finally, we hope that the overlap of these social and academic agendas will allow us to understand better the instruments that can help migrants enjoy more fulfilling transnational lives and benefit societies (rather than states) of origin and residence.



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# ARGENTINA

Between 1881 and 1914, over 4 million Italian, Spanish, French, and Russian citizens moved to Argentina. Immigration reached a historical high in 1914, when 30% of the total Argentine population was composed of foreigners.<sup>1</sup> Migration flows were reversed in the second half of the 20th century: emigration increased particularly during the last military dictatorship (1976-1983) and due to the economic stagnation of the 1980s. However, following the return to democracy in the 1980s and particularly after the recent economic crisis in Spain (an important destination), Argentines living abroad are returning.<sup>2</sup> Today, it is estimated that over 900,000 Argentines live abroad, amounting to a 2.4% of the population in 2010.<sup>3</sup> Still, emigrant and return policies are modest. The *Dirección Nacional de Migraciones* (within the Ministry of the Interior), for instance, works fundamentally with immigration, and only three of the 126 articles of the recent Argentine Migration Law are dedicated to emigrants.<sup>4</sup>

Emigration is a matter addressed individually by the abovementioned *Dirección Nacional de Migraciones* as well as by the *Dirección Nacional de Asuntos Consulares* (within the Ministry of Foreign Affairs). These two institutions do not seem to coordinate their actions, given that their policies overlap and often contradict one another.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

There are no legal obstacles to dual nationality; individuals are allowed to have other nationalities without losing the Argentine one.<sup>5</sup> However, Argentines who accept a second nationality have their political rights suspended until they return.<sup>6</sup>

Citizens with double nationality at birth have more options. Argentina has signed dual nationality agreements with Chile, Colombia, Ecuador, El Salvador, Honduras, Italy, Nicaragua, Norway, Panama, Spain, Sweden and (until October 20, 1981) the United States. In these cases, according to Oyarzábal,

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1 International Organization for Migration, *Perfil migratorio de Argentina 2012*, 17.

2 Ibid. 17-18.

3 Ibid. 42.

4 Congreso de la Nación Argentina, *Ley 25.871 - Ley de Migraciones*, 2013.

5 Dirección Nacional de Migraciones, *Resolución N° 2.650. Apruébase el cuerpo de instrucciones para el tratamiento migratorio de los argentinos que se hubieran naturalizado en otro país*, 1984, Anexo I, I - Introducción, 1.

6 Ibid.; Honorable Cámara de Diputados de la Nación, *Ley N° 346 - Ciudadanía y Naturalización*, Art. 8.

Argentina understands double nationality as unequal nationalities; one full nationality for the country of permanent residence and another dormant nationality of lower importance.<sup>7</sup> Someone with double nationality and permanent residence in one of the abovementioned countries, for instance, will be treated as a foreigner on Argentine territory. Meanwhile, if one decides to take up permanent residence in Argentina, the Argentine nationality becomes the dominant one.<sup>8</sup>

Individuals with a second citizenship from a country with which Argentina has not signed a dual nationality agreement will always be considered Argentine. They may even enter or leave national territory with their non-Argentine passport, provided they can prove to be Argentine as well.

While the Nationality Law establishes that all children of native Argentines can choose to become native Argentines themselves,<sup>9</sup> this choice is neither extended to further generations nor to spouses.<sup>10</sup> Grandchildren and spouses can become naturalized Argentines, but certain rights are reserved for native Argentines, such as the right to run for president.<sup>11</sup>

#### LOSS OF CITIZENSHIP/NATIONALITY

According to the Nationality Law, Argentine citizens cannot lose their nationality.<sup>12</sup> This was also verified in practice: in 2009, two judges from the National Electoral Chamber (*Cámara Nacional Electoral*) ruled that renunciation of nationality was unconstitutional.<sup>13</sup>

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7 Oyarzábal, *La nacionalidad argentina: un estudio desde la perspectiva del derecho internacional público, del derecho internacional privado y del derecho interno argentino, con referencias al derecho de la integración*, 44.

8 Dirección Nacional de Migraciones, *Resolución N° 2.650. Apruébase el cuerpo de instrucciones para el tratamiento migratorio de los argentinos que se hubieran naturalizado en otro país*.

9 Honorable Cámara de Diputados de la Nación, *Ley N° 346 - Ciudadanía y Naturalización*.

10 Consulado General y Centro de Promoción Argentina de la República Argentina, "Nacionalidad argentina (para hijos de argentinos nativos)."

11 Poder Legislativo Nacional, *Constitución de la Nación Argentina*, Art. 89.

12 Dirección nacional de migraciones, *Resolución n° 2.650. Apruébase el cuerpo de instrucciones para el tratamiento migratorio de los argentinos que se hubieran naturalizado en otro país*, Anexo I, III

13 Germán Bidart Campos, "La pérdida de la nacionalidad argentina nativa es inconstitucional." In Munné and Dalla Via, Simoliunas, Christian David y Federico Javier s/ solicitan renuncia a ciudadanía argentina, 17 (2009), 17.



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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Voting is compulsory for all Argentines, as established by the National Electoral Code.<sup>14</sup> Citizens who are over 500km away from their district at the time of the election are exempt from voting, as long as their absence is justified on “reasonable grounds.”<sup>15</sup>

Citizens not registered as non-residents must justify their absence if they do not vote. This suggests that registered non-residents are not required to justify their absence at all.<sup>16</sup> Indeed, in case of registered non-resident citizens, both inscription and voting are voluntary: they may register for inclusion in the Register of Voters Abroad (*Registro de Electores Residentes en el Exterior*), which is subordinated to the National Electoral Chamber, and may vote according to their last domicile in Argentina, but are not obligated to do so.<sup>17</sup>

Non-resident voters can only vote in national elections (both legislative and executive).<sup>18</sup> There are no external voting rights for national or regional referenda, for the regional executive or regional legislatures. Though Argentina is a federal state, the participation of non-residents is only regulated by national laws, and provincial constitutions make no reference to emigrants (see, for example, the Constitution of Córdoba Province<sup>19</sup> or the Constitution of Misiones Province<sup>20</sup>).

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

In theory, non-resident citizens have candidacy rights.

The Constitution establishes that potential congressmen or women must be over 25, be Argentine citizens for over four years and either born in the province they aim to represent or resident in said province for the previous two years.<sup>21</sup> Meanwhile, senators must be aged 30 or over, be Argentine citizens for over six years and either born in the province they aim to represent or resident in said province for the previous two years.<sup>22</sup> Presidents and vice-presidents must fulfill the same requisites as senators, and be na-

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14 Presidente de la Nación Argentina, *Ley N° 19.945. Código Electoral Nacional*, Art. 12.

15 Ibid. Art. 12b.

16 Presidente de la Nación Argentina, *Ley N° 24.007 - Creación de Registro de Electores Residentes en el Exterior*, Art. 8.

17 Ibid. Art. 1 and 5.

18 Ministerio de Relaciones Exteriores y Culto, “Voto argentino en el exterior.”

19 Convención Constituyente, *Constitución de la Provincia de Córdoba*.

20 Convención Constituyente, *Constitución de la Provincia de Misiones*.

21 Poder Legislativo Nacional, *Constitución de la Nación Argentina*, Art. 48.

22 Ibid. Art. 55.

tive Argentines. However, there is no residence requirement.<sup>23</sup> According to these requirements, then, non-resident citizens could run for president and vice-president, as long as they are native Argentines. They can also run for the Congress and the Senate, as long as they were born in the provinces they aim to represent. However, Emmerich has argued that the legislation regulating the rights of non-resident voters only allows voting in national elections and not electoral candidacy.<sup>24</sup>

#### **VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS**

Non-resident citizens enrolled in the Registry for Voters Abroad can only vote in the embassy or consulate where they are registered.<sup>25</sup> In-country voting, proxy, postal, or e-voting have not been implemented.

#### **REGISTRATION FOR FRANCHISE**

Registration is automatic in the case of in-country voting. Any individual living in Argentina, regardless of voting status, must normally present all relevant/required information to the National Register of Persons (*Registro Nacional de las Personas*, RENAPER). Every month, RENAPER submits updated information to the National Electoral Chamber, which is responsible for updating the electoral register.<sup>26</sup>

For non-resident citizens, active registration is required in the electoral roll for residents abroad. They can register online or at the nearest consular office.<sup>27</sup> However, this is not mandatory, nor is it mandatory for registered non-resident citizens to vote, as long as they justify their absence.<sup>28</sup> After initial registration as Argentine voters abroad, registration is automatic for subsequent elections.<sup>29</sup>

#### **MODE OF REPRESENTATION**

The mode of representation for national legislative elections is a general biographical incorporated counting: the vote of a non-resident individual is incorporated into the broader totals and combined with votes from the individual's last district of residence in Argentina. If the last district of residence cannot be established, the district of birth will be considered. In case this

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23 Ibid. Art. 89.

24 Emmerich, "El Sufragio transnacional en Argentina: Problemas y posibilidades," 5.

25 Presidente de la Nación Argentina, *Ley N° 24.007 - Creación de Registro de Electores Residentes en el Exterior*, Art. 29.

26 Presidencia de la Nación, "Registro Nacional de las Personas (RENAPER)."

27 Cámara Nacional Electoral, "Elecciones Nacionales 2013 información para argentinos residentes en el exterior."

28 Cámara Nacional Electoral, "Registro de electores residentes en el exterior."

29 ProArgentina, "Voto exterior preguntas frecuentes."

cannot be determined (because the citizen was born abroad, for instance), the parents' last district of residence will be considered.<sup>30</sup>

#### EXTERNAL VOTING IMPLEMENTATION

Though there are bills proposing the creation of a new electoral district, with five seats in the Chamber of Deputies representing non-resident voters, such bills have not been passed.<sup>31</sup>

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### REGULATION OF POLITICAL COMPETITION

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#### PARTY OFFICES IN HOST COUNTRIES

There is no specific regulation for external party offices, suggesting that they are neither officially envisioned nor explicitly forbidden.<sup>32</sup> According to researchers, there are no large Argentine communities residing abroad.<sup>33</sup> This suggests that the legislation does not explicitly prohibit the establishment of Argentine party offices abroad, yet there is little political interest to do so.

#### POLITICAL CAMPAIGNS

There is no specific regulation for political campaigns conducted abroad.

#### MEMBERSHIP

According to the Organic Law for Political Parties, in order to join a party, one must first join the electoral registry in the district of affiliation, then confirm one's identity and fill out a form with personal information. The form can be presented to electoral authorities, to the party administration or the local post office.<sup>34</sup> These guidelines suggest that emigrants are not allowed to join a party, since they are not locally registered in any province, only in the Registry for Voters Abroad. In truth, however, emigrant membership is neither mentioned by the Law for Political Parties, nor by the multiple party programs (since Argentina is a highly decentralized state, so parties have different programs in every province).

According to the national guidelines established by the Justicialist Party (*Partido Justicialista*), for example, all members are entitled to be a candidate for posts within the party, though priority is given to minorities.<sup>35</sup> If a citizen is al-

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30 Presidente de la Nación Argentina, *Ley N° 24.007 - Creación de Registro de Electores Residentes en el Exterior*, Art. 6.

31 Honorable Cámara de Diputados de la Nación, *Proyecto de Ley 3841-D-2009*.

32 Congreso de la Nación Argentina, *Ley N° 23.298 - Ley Orgánica de los Partidos Políticos*.

33 Norberto Emmerich, "Participación política de emigrantes argentinos."

34 Congreso de la Nación Argentina, *Ley N° 23.298 - Ley Orgánica de los Partidos Políticos*.

35 Partido Justicialista, "Carta Orgánica Nacional - Partido Justicialista."

ready a party member at the time he or she leaves the country, one can assume that he or she has internal candidacy rights, given that no direct reference is made to emigrant party members.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

There is no consultative body for/of emigrant representation acting at the national level.

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## ADMINISTRATION

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### CONSULATES

Argentina has a total of 155 diplomatic representations in 87 countries,<sup>36</sup> divided as follows: 87 embassies, 23 consulates, 37 consulates general and 8 centers of commercial promotion.

Mobile consulates also exist,<sup>37</sup> whereas online or weekend services do not. Argentine consulates do not provide legal, financial or psychological consultancy.

### HOME COUNTRY ADMINISTRATION

Argentina has two bodies for the administration of emigrant policies at home. One is the Directorate of Argentines Abroad, which is subordinate to the General Directorate of Consular Affairs within the Ministry of Foreign Affairs, thus with the fourth rank in public administration<sup>38</sup>. The main objective of this directorate is allegedly the support of non-resident Argentines, particularly in case of detention, disease, or death. Still, the directorate does not even have its own web page, though it was created in 2003.

The other body, of which its permanence could not be verified, was created at the subnational level, again revealing the high decentralization of Argentina. It is the Centre for Immigrant and Emigrant Assistance, subordinated to the Ombudsman's Office in Buenos Aires. The center offers information on emigrants' rights, labor, culture, etc. It also aims to accelerate procedures related to emigrants. Again, no official information is available on

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36 Ministerio de Relaciones Exteriores y Culto, "Representaciones argentinas en el exterior."

37 Consulado General de Argentina en New York, "Consulado itinerante a Boston 2014."

38 Tamara Krell, "Dirección de Argentinos en el Exterior."

how it operates. Moreover, according to Novick,<sup>39</sup> work with emigrants was interrupted shortly after the center was founded.<sup>40</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The government is committed to signing international treaties that allow emigrants to send remittances to their relatives living on Argentine soil.<sup>41</sup> Accordingly, the Ministry of Foreign Affairs created the *Cuenta Provincia Ahorro 25* to facilitate transfers. The program allows non-resident Argentines to open a bank account at the *Banco Provincia de Buenos Aires*. The emigrant is expected to be the account holder and the relatives in Argentina are expected to be co-holders, as the program is guided by the principle of family assistance.<sup>42</sup>

Other than *Cuenta Provincia Ahorro 25*, there is no strategy to attract remittances – according to an ECLAC study, Argentina is amongst those Latin American countries receiving comparatively little in remittances.<sup>43</sup> Additionally, Argentina signed the Brasilia Declaration: Towards The South American Citizenship, which states that signatories are committed to not using remittances as a form of development aid.<sup>44</sup>

### INVESTMENT

As established by the Law on Foreign Investment, a foreign investor is any physical or legal person residing outside the national territory.<sup>45</sup> This means that emigrants are treated like foreign investors. Though there are government strategies to attract investments from foreigners,<sup>46</sup> none targets Argentine emigrants in particular.

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39 Susana Novick, “Políticas y actores sociales ante la emigración de argentinos,” 316.

40 Susana Novick, “Evolución reciente de la política migratoria argentina.”

41 Congreso de la Nación Argentina, *Ley N° 25.871 - Ley de Migraciones*, Art. 102.

42 Consulado General de la República Argentina en Río de Janeiro, “Ciudadanos argentinos en el exterior - Cuenta Provincia Ahorro 25.”

43 Jorge Martínez, *América Latina y el Caribe: Migración internacional, derechos humanos y desarrollo*, 211.

44 Red Internacional de Migración y Desarrollo, “Declaración de Brasilia Rumbo a la Ciudadanía Sudamericana,” 140.

45 Poder Ejecutivo Nacional, *Ley N° 21.382 - Ley de Inversiones Extranjeras. Aprobado como Anexo I del Decreto N° 1853/1993*, Art. 2.

46 “Invest in Argentina,” <http://www.inversiones.gov.ar>, for example.

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

The program R@íces (*Red de Argentinos Investigadores y Científicos en el Exterior*) was established by the Ministry of Science, Technology and Productive Innovation (MINCYT) to reverse brain-drain by strengthening relations between resident and non-resident Argentine researchers. Additionally, it promotes Argentine research abroad, coordinates return policies and integrates foundations and NGOs into its work.<sup>47</sup> Between 2003 and 2012, MINCYT managed to repatriate 900 Argentine scientists and specialists. 54% of the returnees came from the Americas, 44% from Europe, 1% from Asia and 1% from Oceania.<sup>48</sup> This program has served as a model for other countries in the region.

Meanwhile, the National Scientific and Technical Research Council (*Consejo Nacional de Investigaciones Científicas y Técnicas, CONICET*) offers post-doctoral fellowships and arranges placements (in both the public and private sectors) for Argentines who have studied abroad and want to return home to conduct research.<sup>49</sup>

### RETURN POLICIES

Along with Bolivia, Chile, and fellow MERCOSUR countries, Argentina signed the *Protocolo de Integración Educativa y Reválida de Diplomas, Certificados, Títulos y Reconocimiento de Estudios de Nivel Medio Técnico* to facilitate the recognition of primary and secondary education attained in the respective signatory countries.<sup>50</sup> Additionally, Argentina has signed bilateral or multilateral recognition agreements with Colombia, Ecuador, France, Italy, Mexico, Peru, Spain, and Venezuela.<sup>51</sup>

For countries with which Argentina has signed no agreement, the validation process must be undertaken at the Directorate of National Validity of Titles and Studies in the Ministry of Education.<sup>52</sup>

Concerning the recognition of university degrees, Argentina has signed agreements with Bolivia, Chile, Colombia, Cuba, Ecuador, Mexico, Peru, and Spain: if the degree was obtained in one of those countries, the Ministry of Education is responsible for the procedures. If, however, the degree was obtained in a country with which Argentina no agreement, then a commission

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47 Ministerio de Ciencia, Tecnología e Innovación Productiva de la Nación (MINCYT), “R@íces – Red de Argentinos Investigadores y Científicos en el Exterior.”

48 International Organization for Migration, *Perfil migratorio de Argentina 2012*, 60.

49 Consejo Nacional de Investigaciones Científicas y Técnicas (CONICET), “Becas internas postdoctorales para la reinserción de investigadores.”

50 Mercosur, *Protocolo de integración educativa y reválida de diplomas, certificados, títulos y reconocimiento de estudios de nivel medio técnico*.

51 Ministerio de Educación, “Convalidación de estudios realizados en el extranjero.”

52 Ministerio de Educación, *Resolución N° 497/06 del 11 de Mayo de 2006*, 06.

of experts from national (state) universities is responsible for the recognition of qualifications.<sup>53</sup>

Additionally, Argentina has established specific procedures to recognize both vocational technical education<sup>54</sup> and teacher training<sup>55</sup> obtained abroad. In both cases, the country adheres to the Apostille Convention, an international treaty that recognizes all public documents emitted by state signatories.<sup>56</sup> This means that any academic or professional qualification obtained in one of the signatory countries is automatically recognized in Argentina.<sup>57</sup>

Finally, for research and teaching purposes, Argentine universities also automatically recognize undergraduate and graduate degrees obtained in universities from other MERCOSUR members.<sup>58</sup>

In case of degrees from countries with which Argentina has not signed a bilateral agreement, the average time period for recognition of academic qualifications (university degree) is between 14 and 16 months. If Argentina has signed an agreement with the country and a commission of experts is not necessary, recognition will take between six and 12 months.<sup>59</sup> Finally, in case of qualifications obtained in one of the signatory countries of the Apostille Convention, only one day is necessary.<sup>60</sup> As for secondary qualifications, the government offers no prognosis, though citizens can consult the progress of their application online.<sup>61</sup>

The only communication campaigns aiming to convince emigrants to return to Argentina are brain-gain policies, suggesting that the emigrants the state wants back are young, internationally educated, and highly qualified. In-

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53 Sistema Informático de Solicitud de Covalidaciones (SISCO), “Homologar un título universitario en la República Argentina.”

54 Ministerio de Educación, *Resolución N° 811/98 del 28 de Abril de 1998 - Requisitos para iniciar los trámites de reconocimiento de títulos realizados en el exterior de formación técnica no universitario.*

55 Ministerio de Educación, *Resolución N° 75/14 del 10 de Febrero de 2014 - Reglamento operativo para la reválida de certificados expedidos en el exterior correspondientes a estudios superiores extranjeros (exceptuando los universitarios) de formación docente*, 2014.

56 Hague Conference on Private International Law, “Convenio de 5 de Octubre de 1961 Suprimiendo la exigencia de legalización de los documentos públicos extranjeros”; Dirección Nacional de Validez de Títulos y Estudios, “Reválida de estudios de educación superior técnica y de formación docente.”

57 Guía de Trámites, “Apostilla de La Haya.”

58 Mercosur, *Protocolo de integración educativo para proseguimiento de estudios de post grado en las universidades de los estados partes del MERCOSUR*; Mercosur, *Acuerdo de admisión de títulos y grados universitarios para el ejercicio de actividades académicas en los estados partes del MERCOSUR.*

59 Sistema Informático de Solicitud de Covalidaciones (SISCO), “Preguntas frecuentes.”

60 Guía de Trámites, “Apostilla de La Haya.”

61 Dirección de Validez Nacional de Títulos y Estudios, “Reconocimiento de educación secundaria de países sin convenio.”



deed, the Organization of Ibero-American States qualifies the repatriation of scientists as an “Argentine state policy.”<sup>62</sup>

As previously mentioned, two brain-gain policies in particular offer incentives for Argentine researchers to return. *Reinserción de Investigadores*, run by the CONICET, focuses on researchers who have been abroad for over two years. Researchers and technologists not covered by the CONICET campaign and who found a placement in Argentina on their own may apply for return subsidies offered by the *R@íces* program.<sup>63</sup>

Numerous citizens left Argentina during the military dictatorship (1976-1983), and while these citizens are entitled to reparations, an “exile law” has not yet been passed.<sup>64</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

In Argentina, obligatory military service was abolished in 1995.<sup>65</sup> It is now voluntary, meaning both resident and non-resident Argentine males can choose to serve or not.<sup>66</sup> There is also a *servicio social substitutorio*, but given that military service is voluntary, one can assume that social services are voluntary as well.<sup>67</sup> Nevertheless, an exception can be made if the army’s quotas are not filled. In this case, the Executive may request authorization from the Legislative to draft citizens turning 18 in that particular year.<sup>68</sup> In any event, non-resident citizens are not mentioned at all in the law.

Judging by the lack of legislation on this matter, non-resident Argentines do not have to pay taxes in Argentina. Additionally, the Argentine Migration Law states that every Argentine living abroad for over two years and who decides to return to Argentina is allowed to bring his property, free of tax.<sup>69</sup>

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62 Organización de Estados Iberoamericanos para la Educación, la Ciencia y la Cultura (OEI), “El retorno al país de científicos argentinos como política de Estado.”

63 Ministerio de Ciencia, Tecnología e Innovación Productiva de la Nación (MINCYT), “R@íces – Red de Argentinos Investigadores y Científicos en el Exterior.”

64 Embajada de la República Argentina en Nueva Zelanda, “Leyes reparatorias de violaciones a los Derechos Humanos cometidas por el estado en tiempos de interrupción del orden institucional.”

65 Ministerio de Defensa, *Ley 24.429 - Ley del Servicio Militar Voluntario*, Art. 32.

66 Ibid. Art. 1-7.

67 Ibid. Art. 21.

68 Ibid. Art. 19.

69 Congreso de la Nación Argentina, *Ley N° 25.871 - Ley de Migraciones*, Art. 103.

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## CULTURAL POLICIES

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Though many cultural centers abroad exist, they are registered as charities (such as the Anglo-Argentine Society or Association of Argentine Professionals in the United Kingdom, APARU), foundations (*Centro Argentino de Munich e. V.*), nonprofit organizations (*Casa Argentina de Houston, Centro Argentino de Dallas/Fort Worth*) or associations (*Casa de Argentinos en Salamanca, Asociación Argentina en Dinamarca*). These centers are neither managed nor funded by the Argentine state.<sup>70</sup>

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## EXIT AND TRANSIT POLICIES

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The *Guía para Argentinos en el Exterior* brochure provides information relevant for Argentines planning on returning to their home country in the foreseeable future. Interestingly, the campaign is run by the Ministry of the Interior, instead of the Ministry of Foreign Affairs.

No information campaigns to discourage emigration exist. Sara Martínez, director of a campaign known as *Provincia 25*, stated in an interview that “no return program is envisaged [...]. Emigration is a right and consequently we have created an association program, convinced as we are that people will return due to the improvements in living standards that began in 2003.”<sup>71</sup> Accordingly, migration is understood as a right that should not be discouraged; instead, the state believes in the importance of forging a connection to emigrants and creating opportunities that are attractive enough to motivate their return to Argentina.

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## SOCIAL POLICIES

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According to the Migration Law, the Argentine government may sign agreements with states in which Argentines reside in order to provide them equal or similar labor rights and social security in their country of residence.<sup>72</sup>

Concretely, the Ministry of Work, Labor and Social Security has signed bilateral agreements with Chile, France, Greece, Italy, Portugal, Slovenia, and Spain,<sup>73</sup> in addition to the Multilateral Ibero-American Convention on Social

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70 Dirección Nacional de Migraciones, “Comunidades de argentinos en el exterior.”

71 Tiempo Argentino, “Crece La Provincia 25.”

72 Congreso de la Nación Argentina, *Ley N° 25.871 - Ley de Migraciones*, Art. 102.

73 Administración Nacional de la Seguridad Social (ANSES), “Trabajadores en el exterior.”

Security,<sup>74</sup> and a multilateral agreement with fellow MERCOSUR members Brazil, Paraguay, and Uruguay. Paying agreements have also been signed with Mexico, the United States, and the Netherlands.<sup>75</sup> The declared intention is to ensure that workers with contributions in different countries have access to employment benefits.<sup>76</sup>

In MERCOSUR member states, according to the Multilateral Mercosur Accord on Social Security,<sup>77</sup> the employee is subjected to the legislation of the country he works in, except in case of temporary employment (under 12 months), employment for travelling companies or diplomatic organisms. Social security contribution must total 30 years, whereby all contributions in member states are counted.

The abovementioned treaties do not apply to employment benefits alone: It is also possible to maintain retirement benefits in case of countries Argentina has signed an agreement with.<sup>78</sup> The procedure for non-resident Argentinians is the same as for resident citizens. If, however, an individual worked in a partner country for less than 12 months, his contribution for this period may not be included.

Finally, when it comes to healthcare benefits, emigrants have the same rights and duties as natives in the countries that signed the Multilateral Ibero-American Convention on Social Security. Additionally, emigrants are entitled to emergency care in the territories of all signatories, even in countries where they do not live.<sup>79</sup>

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## SYMBOLIC POLICIES

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Argentina has done remarkably little to integrate emigrants into Argentine culture and politics. There is no explicit reference to emigrants in the constitution and no official celebration day for the emigrant community (though there is an Immigration Day; September 4).

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74 Organización Iberoamericana de Seguridad Social (OISS), *Convenio Multilateral Iberoamericano de Seguridad Social*.

75 Administración Nacional de la Seguridad Social (ANSES), “Trabajadores en el exterior.”

76 Ministerio del Interior y Transporte, *Guía para argentinos en el exterior. Información relevante para retornar al país*, 34.

77 Congreso de la Nación Argentina, *Ley N° 25.655 - Apruébanse el acuerdo multilateral de Seguridad Social y el reglamento administrativo para su aplicación*.

78 Ministerio del Interior y Transporte, *Guía para argentinos en el exterior. Información relevante para retornar al país*, 35.

79 Presidente de la Nación Argentina, *Ley N° 22.146 - Convenio Iberoamericano de Seguridad Social. Su Aprobación*, Art. 6 and 7.

As previous categories attest, Argentina's emigrant policies tend to have a very specific target: academics, researchers, and intellectuals. Accordingly, the only prize awarded to emigrants celebrates non-resident Argentine researchers whose work contributes to the internationalization of Argentine academia and strengthens the country's scientific and technological capabilities. Every year, the Ministry of Science, Technology and Productive Innovation (MINCYT) awards the *Premio a la Cooperación Internacional en Ciencia, Tecnología e Innovación RAICES*.<sup>80</sup>

*Provincia 25* (in addition to the 23 provinces and the Federal District) was created by the Ministry of Interior Affairs in 2003 to reinforce the sentiment of belonging to Argentina and strengthen the political rights of Argentines living abroad.<sup>81</sup> This is a truly symbolic entity, as no such province formally exists (and emigrants are not entitled to political participation on provincial level).

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<sup>80</sup> Ministerio de Ciencia, Tecnología e Innovación Productiva (MINCYT), "Seminarios RAICES."

<sup>81</sup> Ministerio del Interior y Transporte, "Argentinos en el exterior."

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## BELIZE

Belize's migration profile is as Caribbean as it is Central-American. With Caribbean countries, it largely shares a similar legal framework, a similar emigration profile (around 16% of its citizens live abroad),<sup>1</sup> a similar immigration profile, being an attractive destination for retirees, and it is also highly marked by brain-drain. With its neighbors Mexico and Guatemala, it shares the propensity to be a transit and/or immigration country for Central Americans fleeing violence and trying to migrate to the North.

In the last decades, tensions within Belize have arisen between the monolingual (Anglophone) population and the growing numbers of Spanish-speaking immigrants.<sup>2</sup> These tensions extend to Belizeans abroad, who have framed their claims for external voting rights as a means to offset the growing influence of immigrants in their home country politics. Diaspora members resent not having electoral rights abroad while Belize remains relatively open to admit immigrants and offers them a path to full citizenship.<sup>3</sup> The nationalistic overtones of this debate for external voting rights are linked to the long-standing territorial dispute between Belize and Guatemala, in which the diaspora has activated to lobby for the Belizean side.<sup>4</sup>

Economically, Belizeans are not sending remittances in the same rates as their Caribbean neighbors with similar emigrant populations, according to the IOM.<sup>5</sup> This might be attributable to the lack of policies in place to attract remittances, but also to the emigrant profile of the Belizean diaspora. Remittances are by no means the only indicator of emigrants' interest in keeping bonds with their homelands, but there is little evidence of other initiatives to connect with the homeland, beyond the politicized publications in some social and online media.

From the other side of the relationship, however, the Belizean state is just beginning to take interest in its diaspora and to get an idea of who and where they are, as evidenced by the websites of some Belizean consulates featuring announcements of a campaign inviting Belizeans abroad to register in order to "determine the number of Belizeans living overseas and to foster a closer relationship with this overseas community..."<sup>6</sup> The Belizean catalog of emigrant policies is rather thin at the moment.

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1 OECD, *Connecting with Emigrants A Global Profile of Diasporas 2015*, 130.

2 The Economist, "A Spanish Accent."

3 Ramos, "Commentary: Belize Citizens Living Abroad Are Denied Their Voting Rights."

4 Jones, "Diaspora of Belize."

5 International Organization for Migration, "Migration Trends - IOM Belize - IOM RO San Jose."

6 Embassy of Belize in Washington D.C., "Registration of Belizean Overseas."

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

In Belize, there are no legal obstacles to double nationality/citizenship for Belizeans by birth or descent. This applies to the first and second generation.<sup>7</sup> This is stated clearly in the law, while the tolerance or acceptance of dual nationality for the naturalized is not explicitly regulated, which could be interpreted as including a distinction.<sup>8</sup> The existence of “economic citizenship” programs that give a second (Belizean) passport to “investors” signals that dual nationality for naturalized Belizeans is tolerated because there is no requisite of renunciation of previous nationality. The prevalence of distinctions “by origin” serves to regulate the revocation of citizenship from naturalized Belizeans who spend more than 5 years abroad. If individuals have dual or multiple nationalities, they may not exercise certain public offices: they are disqualified for membership in the House of Representatives or the Senate. It is explicitly stated that Belizeans by origin may take up another nationality. What applies to investor citizenship refers to preserving their nationality of origin when taking up the Belizean, but not to Belizeans by naturalization wanting to take up an additional nationality.

Naturalization (adoption of nationality by option) is only prohibited in Belize if the applicant has the nationality by origin of a country that has not recognized the independence of Belize (i.e. Guatemala).<sup>9</sup> However, many Guatemalans have naturalized.

### LOSS OF CITIZENSHIP/NATIONALITY

Belize makes no distinction between citizenship and nationality. Nationality can only be lost by naturalized citizens if they reside abroad for at least 5 consecutive years, except if they are government employees abroad, students, or spouses of Belizeans by descent. This does not apply to “economic citizens,” a category of naturalization that is discretionary and can be given to a person that “has made a substantial contribution to the economy and/or well-being of Belize, or has rendered distinguished services to the country.”<sup>10</sup>

In general, if sentenced in any court to imprisonment for a year or more, only citizens by registration and only by declaration by a Minister may lose their nationality. However, this is different if that person has “since the date of his becoming a citizen of Belize by registration, been for a period of not

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7 Elizabeth II, *Belize Act 1981*, Art. 3.

8 National Assembly of Belize, *Constitution of Belize*, Art. 27

9 Law Revision Commissioner, *Belizean Nationality Act Chapter 161*.

10 Ibid. Art. 20.

less than two years ordinarily resident in a foreign country of which he was a national or citizen at any time prior to that date, and has not maintained a substantial connection with Belize; or has taken an oath or affirmation of, or made a declaration of, allegiance to a foreign country.”<sup>11</sup>

#### **DIFFERENT RIGHTS FOR EXTERNAL CITIZENS**

No difference in rights between resident and external citizens has been found other than their lack of electoral rights, which is described below.

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#### **SUFFRAGE**

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Belizeans abroad have no electoral rights: passive or active.

#### **REGISTRATION FOR FRANCHISE**

For resident citizens, registration in the electoral roll is active the first time, then lasts for 10 years. Since July 1st, 1997, the law states that there shall be a complete re-registration of electors every ten years.<sup>12</sup> However, the Representation of the People Act states that “For the purposes of paragraph (c) of subsection (1) above, a citizen of Belize who is a bona fide student studying abroad, or who is on official government duty outside Belize, shall be deemed to continue to reside in the electoral division in which his family home is situate and shall be eligible for registration notwithstanding that he may be physically outside Belize, provided that all other conditions for such registration are satisfied [and art. 5 subsection 1c specifies they must be residents two months before in the electoral division where they seek registration].” This is the case since 1997, which means that in effect a residence of two months previous to the election suffices for some categories of non-resident citizens to regain their electoral rights in Belize and allow them to register in the electoral roll. Still, this is qualitatively very different from granting them external voting rights. The electoral authority (The Elections and Boundaries Department) does consider proxy voting for the latter category (citizens on official government duty), but does not specify how this works and says nothing about students.<sup>13</sup>

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<sup>11</sup> Ibid. Art. 21 (1).

<sup>12</sup> Law Revision Commissioner, *Representation of the People Act Chapter 9*, Art. 9.

<sup>13</sup> Elections and Boundaries Department, “Municipal Elections Training Manual.” 22.

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## REGULATION OF POLITICAL COMPETITION

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There is no regulation of Belizean political parties regarding their activities toward the diaspora, but according to experts from the International Institute for Democracy and Electoral Assistance, this applies to all areas of party activities: “While political parties in Belize are internally well organized, there are no external or legal regulations. Political parties in Belize are not legally required to be registered entities or to adhere to any regulations. The area of campaign financing is seriously underdeveloped. Campaign financing legislation simply does not exist, even though partisan politics and political campaigns are becoming increasingly expensive. [...] No aspect of political financing is regulated in Belize. There is growing recognition among the public and civil society that there is a dire need for campaign financing legislation.”<sup>14</sup>

### MEMBERSHIP

Membership to parties is not regulated in any way by the state, but by the parties themselves. The Peoples United Party (PUP), which has been in power for most of Belize’s independent history, states that: “All Belizeans, eighteen years and over, including those residing abroad, and persons who have resided in Belize for at least three years, are eligible for adult membership to the PUP if they accept and abide by the creed, aims [...] and are not members of any other party...”<sup>15</sup> The other major party, United Democratic Party (UDP) has no online constitution; only a manifesto with no information on membership requirements.<sup>16</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

There is no consultative body of emigrant representation acting at the national level.

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14 Griner and Zovatto, Daniel, *From Grassroots to the Airwaves. Paying for Political Parties and Campaigns in The Caribbean*. 2, 8, and 13.

15 People’s United Party, *The Constitution of the People’s United Party*, Art. 9.

16 United Democratic Party, “UDP Manifesto - 3rd Term Agenda 2015-2020.”

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## ADMINISTRATION

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### CONSULATES

Belize has thirteen embassies, with respective consular sections around the world, a High Commission in London, and 39 honorary consulates as of 2015.<sup>17</sup> This means they have 14 consulates in 14 countries; as the remaining honorary ones only deal with limited services to Belizeans abroad, even if there is indication that some honorary consulates (see North Carolina) do issue documents to Belizeans abroad and perform traditional consular services.<sup>18</sup> These consular offices offer no financial, legal or psychological consultancy services, assistance with healthcare providers, or any supplementary educational service. Also, they have no extended services on Saturdays, no online consulates, and no mobile consulates.

### HOME COUNTRY ADMINISTRATION

The Ministry of Foreign Affairs and Foreign Trade created the Diaspora Focal Point and the Diaspora Advisory Council of Belize in 2009. However, there is no information about their composition.<sup>19</sup> It is also not clear what the rank of the Diaspora Focal Point or the Diaspora Advisory Council would be, or if they would be integrated in public administration under a ministry. The closest one, the Ministry of Foreign Affairs of Belize, is headed by a Chief Executive Officer and has four directorates, none of which deals with the diaspora or seems to incorporate a unit in charge of it.<sup>20</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

There are no programs to stimulate the sending of remittances or their channeling to other programs.

### INVESTMENT

The Belizean government has created the Diaspora Returnee Incentive Program,<sup>21</sup> which foresees providing incentives for investment in Belize, but so far there is no development of any particular program to this end.

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17 EmbassyPages.com, "Belize - Embassies and Consulates."

18 Ministry of Foreign Affairs, "Honorary Consulates of Belize."

19 Diaspora of Belize, "Diaspora Programs | Diaspora of Belize."

20 Ministry of Foreign Affairs, "Organization."

21 Diaspora of Belize, "The DIASPORA Returnee Incentive Program | Diaspora of Belize."



### **BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS**

So far there are no brain-circulation or brain-gain programs developed by the Belizean government to bring back highly-skilled emigrants, even though, as of 2015, the rate of emigration of highly educated Belizeans is close to 35%.<sup>22</sup>

### **RETURN POLICIES**

As part of the Diaspora Returnee Incentive Program, the Ministry of Foreign Affairs established programs to attract Belizeans who are considering return, especially those who have funds to invest in either housing or businesses in Belize. It also targets Belizeans who have a monthly pension or income from a guaranteed source, which they would be depositing and spending in the local economy. It also foresees economic and social benefits, but it is not clear in which form. So far, the program includes, but is not limited to, tax (import duties) exemptions upon return.<sup>23</sup>

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### **OBLIGATIONS**

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#### **MILITARY SERVICE, SOCIAL SERVICE, TAXES**

In Belize, men of 18 years of age are eligible for voluntary military service; laws allow for conscription only if volunteers are insufficient; but this has never been implemented. Being voluntary, emigrants are not obligated to serve.<sup>24</sup> There is no social service in Belize. The Belizean state taxes citizens upon a residential principle, and there are no special taxes for emigrants.<sup>25</sup>

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### **SOCIAL POLICIES**

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Maternity, invalidity and sickness payment are only paid to workers contributing to the welfare system through their employers in Belize, as residents. This system is, however, quite modest and recent, covering only a small part of the population. According to a report, "Legislation protecting the health of Belizean citizens, particularly in the workplace, was weak and poorly enforced. Belize did, however, have a social security system, designed with the help of the United Nations International Labour Organization. In addition to providing pensions for retired and injured workers, the system also provided short-term benefits for sickness and maternity leave."<sup>26</sup>

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22 Ibid.

23 Ibid.

24 Central Intelligence Agency, "The World Factbook: Belize."

25 Law Revision Commissioner, *Income and Business Tax Act*.

26 Merrill, "Health and Welfare."

Regarding healthcare, the situation is similar: there are no healthcare programs targeting the diaspora. Emigrants have access to Belizean healthcare schemes in the same conditions as resident citizens only if they remain enrolled in it. Theoretically, this would allow them to enjoy healthcare if they went back home, as the system is universal and based on citizenship and residence. However it is not clear if domicile suffices as a proof of residence. Emigrants are not required to pay for their family's enrollment to Belizean healthcare plans as they are enrolled anyway as Belizean residents. There is no program for the remote support for health insurance by third parties in Belize, as the system is based on residence and is universal.<sup>27</sup>

Regarding education policies, there is no government program or policy directed to the Belizean diaspora.<sup>28</sup>

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## SYMBOLIC POLICIES

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On the occasion of the 30th anniversary of Belize's Independence, the Ministry of Foreign Affairs and Foreign Trade launched "Homecoming 2011," included a program of historical and cultural heritage, development activities, site visits, tours and participation in an official September Celebration program. The program was promoted through traditional media as well as emails and social media.<sup>29</sup> However, this is neither a consistent of policy nor a regular event.<sup>30</sup>

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<sup>27</sup> Confirmed by the Head of Consular Services at the Belize's High Commission in London. Telephone interview, June 23, 2015.

<sup>28</sup> Ibid.

<sup>29</sup> 7 News Belize, "BTB to Diaspora: 'Come Home!'"

<sup>30</sup> Ramos, "Reconnecting 100,000 to 300,000 Belizeans Abroad to Their Homeland – the Diaspora Program."

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## BOLIVIA

Historically, Bolivia is characterized by net emigration.<sup>1</sup> The official numbers of Bolivian emigrants vary significantly. Whereas the national census has stated that around 700,000 Bolivians reside abroad,<sup>2</sup> higher numbers have been found: According to the Bolivian Foreign Ministry, an estimated 20% of the Bolivian population (i.e. 2.1 out of 10 million, in 2012) lives outside the country;<sup>3</sup> and a non-governmental organization estimated that up to a quarter of the Bolivian population has emigrated.<sup>4</sup>

Whereas emigration to Argentina – the main destination, with an estimated share of 1.2 million compatriots – dates back to the 19th century, emigration to other countries such as the USA and Brazil (around 200,000, respectively) are more recent.<sup>5</sup> With the economic crisis in Argentina in 2000 and the tightened migration politics in the USA after 9/11, Bolivians started to immigrate massively to Spain, mainly between 2002 and 2007 (currently around 210,000).<sup>6</sup> With the economic crisis in Spain, combined with restrictive EU migration policies, numerous Bolivians decided to return to Bolivia or to emigrate to South American countries such as Chile and Brazil.<sup>7</sup> The estimates assume that many of the Bolivian emigrants live in an irregular and thus vulnerable situation. Nevertheless, within South American countries, living conditions for Bolivians have improved considerably, thanks to bilateral/multilateral treaties. For instance, Bolivian workers are enabled to live up to two years (with the possibility of prolonging this permission, or even get an unlimited visa) almost throughout the continent, and in Argentina, in addition, they have access to health, education and other social services. Only the new regulation on Bolivian nationality (2004), which provides the possibility of (re)incorporating Bolivian emigrants into the Bolivian community (by uncoupling the criteria Bolivian nationality and territoriality), gives a first prospect of a forthcoming crucial change in emigrant politics.

But it was not until current president Evo Morales' taking office, when emigration politics, and, in this line, the discourse about the Bolivian diaspora,

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1 Pereira Morató, René, "Perfil migratorio de Bolivia," 9.

2 Ibid. 36.

3 Ministerio de Trabajo, Empleo y Previsión Social, "Protección de los derechos de los migrantes andinos y la trata de personas," 3.

4 Grupo de Trabajo sobre Migraciones, "Balance de Ley de Migración."

5 Pereira Morató, René, "Perfil migratorio de Bolivia," 36.

6 Ministerio de Trabajo, Empleo y Previsión Social, "Protección de los derechos de los migrantes andinos y la trata de personas," 3.

7 Hinojosa Gordonova, Alfonso, "Bolivia: Diaspora and emigration policies," 8; Gobiernos Mercosur, Bolivia y Chile, "Acuerdo sobre residencia para nacionales de los estados partes del Mercosur, Bolivia y Chile," Art.4 and 5.

changed fundamentally: In a time when migration became more visible anyway, due to considerable return flows in the context of the international economic crisis and permanent high emigration flows due to the country's own economic distress, Bolivian diaspora appeared on the political agenda of the President and his government, in line with its general focus on traditionally marginalized groups.<sup>8</sup>

In recent years, Bolivia has not only broadened its consular network, but also strengthened international migrant cooperation, especially within South America.<sup>9</sup> However, Bolivia does not have an institution in charge of emigrant issues. Although steps taken within the last few years have improved Bolivian emigrants' living conditions considerably, the reach of Bolivia's emigrant policies is still quite limited. This is not only due to financial, technological and institutional limits, but also because many emigrants are still living beyond state structures, as many of them are undocumented and are used to making a living without public help.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Since 2004, Bolivian law allows dual nationality for all Bolivian citizens. The current Constitution, implemented in 2009 grants Bolivians the right to apply for further nationalities without renouncing their Bolivian nationality, just as foreigners are not required to renounce their original nationality.<sup>10</sup> As a consequence, previous accords on dual nationality have become irrelevant.

The Migration Law states that naturalized citizens have the same rights as Bolivians by birth.<sup>11</sup> This implies that multiple nationalities do not have negative effects on citizen rights.

The Bolivian Constitution establishes that children of Bolivians (only 1st generation) may apply for Bolivian nationality although they are born abroad.<sup>12</sup>

Bolivian law makes no distinction between Bolivian nationality and Bolivian citizenship (i.e., Bolivians automatically are Bolivian citizens).

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8 Lafleur, Jean-Michel, Hinojosa Gordonava, and Domenech, Eduardo, "Surgimiento y desarrollo del 'Voto en el exterior' en el 'Proceso de cambio' boliviano." 58.

9 Hinojosa Gordonava, Alfonso, *Análisis descriptivo de las instituciones responsables de la gestión de las políticas migratorias en Bolivia, Colombia, Ecuador y Perú*, 9.

10 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art.143.

11 Asamblea Legislativa Plurinacional, *Ley 370. Ley de Migración*, Art. 40.

12 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art. 141.



### LOSS OF CITIZENSHIP/NATIONALITY

The Constitution does not establish residence abroad as a criterion for losing political rights. These can only be lost in case of taking up arms against Bolivia, embezzling public resources, or betraying the country.<sup>13</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

There are no significant differences in citizen rights and duties for persons who reside outside Bolivia.

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Before the implementation of the new Constitution (in 2009), Bolivian law did not preclude non-residents from voting. At the same time, it did not offer any provision for external voting, nor financial incentives to travel back to Bolivia in order to vote in the home circumscription. The current Constitution provides the possibility for external participation in presidential and vice presidential elections and national referenda.<sup>14</sup> Furthermore, it establishes that voting and voting registry for non-residents are voluntary,<sup>15</sup> whereas for residents, it is both compulsory and automatic.<sup>16</sup> The Electoral Law states that the Supreme Electoral Court (*Tribunal Superior Electoral*, TSE) will open polling stations in those countries where Bolivia has a permanent diplomatic or consular representation, and where Bolivians have registered on the electoral roll prior to the elections.<sup>17</sup> For the 2014 general elections, the TSE determined that external elections would be held in 69 cities in 33 countries.<sup>18</sup>

External participation in presidential and vice-presidential elections, as well as national referenda, is granted by the Constitution<sup>19</sup> and Electoral Law,<sup>20</sup> providing that they are of age (18) and have registered in the external electoral roll. Non-resident Bolivians may not vote abroad for the national legislature or for regional elections.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Bolivian law does not allow non-residents to stand for election in any case.

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13 Ibid. Art. 28.

14 Ibid. Art. 27.

15 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 205.

16 Ibid. Art. 43.

17 Ibid. Art. 200.

18 Tribunal Supremo Electoral Órgano Electoral Plurinacional, “Elecciones Generales 2014 en Democracia Intercultural,” 31.

19 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art. 27, I.

20 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 199.

In order to be a candidate for president is the uninterrupted residence of 5 years prior to the elections.<sup>21</sup> For the national, regional, and local legislative assemblies, as well as regional and local executive positions, the residence criterion is two years.<sup>22</sup>

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Bolivian non-residents may vote in consulates: The Electoral Law indicates that the TSE will establish polling stations in countries where Bolivians have registered on the electoral roll.<sup>23</sup> There are no provisions for proxy, postal, or electronic voting.

Theoretically, it is possible for non-resident Bolivians to vote in the country. Those who have not registered on the electoral roll abroad (and have not informed any public institutions about their emigration) may travel back to their home circumscription in order to vote there. However, Bolivians are excluded from the list of enfranchised voters after having missed two consecutive elections.<sup>24</sup> Furthermore, Bolivian citizens are obligated to inform the government of any change in residence.<sup>25</sup> These regulations mean that returning to Bolivia to vote is highly impractical.

#### REGISTRATION FOR FRANCHISE

The Electoral Law establishes that the electoral roll is updated automatically, meaning that resident Bolivians are automatically registered to vote.<sup>26</sup> Bolivian emigrants, however, have to register on the external electoral roll at their nearest consulate.<sup>27</sup> This registration is voluntary.

#### MODE OF REPRESENTATION

As external franchise is restricted to (vice-)presidential elections and national referenda, Bolivian emigrants are not specifically represented in the government.

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21 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art. 167.

22 Ibid. Art. 285; Tribunal Supremo Electoral, *Reglamento para la Elección de la Máxima Autoridad del órgano Ejecutivo Departamental*, Art. 50.

23 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 200.

24 Asamblea Legislativa Plurinacional, *Ley 018. Ley del Órgano Electoral Plurinacional*, Art. 77.

25 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 99.

26 Ibid. Art. 99.

27 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia* Art. 27; Consejo de Ministros, *Decreto Supremo 0003. Registro y Empadronamiento de los bolivianos en el exterior*, Art. 2.

### EXTERNAL VOTING IMPLEMENTATION

Faced with a considerable opposition to the implementation of external vote, president Morales decided to implement a transitional law that limited the external voting impact by establishing that the external registry could not exceed 6% of the national registry.<sup>28</sup> Furthermore, external franchise was limited to the four countries where most Bolivians lived in 2009: Argentina, Brazil, Spain, and the USA. Although this law was an important step towards the implementation of external franchise, it was in conflict with the Electoral Law, which establishes that polling stations must be opened in all countries where Bolivians have registered in the external electoral register and where Bolivia has a diplomatic or consular representation.<sup>29</sup>

The Constitution offers the possibility for a broadening of external franchise in the future for nonresidents to participate in legislative or regional elections.<sup>30</sup>

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### REGULATION OF POLITICAL COMPETITION

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The most important laws regarding political competition are, besides the Constitution, the Party Law (1983) and the Electoral Law (026), as well as the Law of the Electoral Institution (018). Whereas the latter ones have been developed on the base of the new Constitution, the Party Law was implemented in 1999, when external voting did not exist. As a consequence, external political competition is not regulated by that law.

### PARTY OFFICES IN HOST COUNTRIES

Neither the Constitution, nor the Electoral Law,<sup>31</sup> nor the Party Law<sup>32</sup> mention the permission or prohibition of external party offices.

At the moment, Bolivian parties do not have external permanent offices.<sup>33</sup>

### POLITICAL CAMPAIGNS

All electoral processes conducted abroad are subject to the same legal dispositions established in the Electoral Law,<sup>34</sup> which establishes that the external

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28 Honorable Congreso Nacional, *Ley 4021. Régimen Electoral Transitorio*, Art. 47

29 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 200.

30 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art. 27.

31 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*.

32 Honorable Congreso Nacional, *Ley 1983. Ley de Partidos Políticos*.

33 Lafleur, Jean-Michel and Sánchez-Domínguez, María, "The Political Choices of Emigrants Voting in Home Country Elections: A Socio-Political Analysis of the Electoral Behaviour of Bolivian External Voters."

34 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 206.

electoral propaganda will be regulated by the Supreme Electoral Court. This means that for the moment, there are no specific rules for external political campaigns.

Political parties in Bolivia receive public funding, both in times of electoral campaigns and outside electoral campaigns<sup>35</sup> and therefore may invest in external offices or campaigns. However, political parties must finance travels of their delegates abroad themselves.<sup>36</sup>

While emigrant Bolivians do not constitute a large constituency, there have been some international campaigns by parties for the 2015 presidential elections.<sup>37</sup>

According to interviews conducted in the context of the 2009 general elections, only 3% of the voters in Argentina, Brazil, USA and Spain had obtained information about the elections via party propaganda, and 1% via electoral events within the parties' voting campaigns; whereas the vast majority (65%) got informed via general information in media (print media, TV, radio).<sup>38</sup>

#### MEMBERSHIP

Emigrant membership in political parties or internal candidacy rights is not restricted in the respective laws,<sup>39</sup> nor in any party statute.<sup>40</sup>

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### INSTITUTIONAL PARTICIPATION

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#### CONSULTATIVE BODIES AT THE NATIONAL LEVEL

Bolivia doesn't have a consultative body for emigrant issues at the national level.

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35 Honorable Congreso Nacional, *Ley 1983. Ley de Partidos Políticos*, Art. 52 and 53.

36 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*, Art. 206, paragraph f.

37 Mealla, Luis, "Solo el MAS y PVB confirmaron viajes al exterior para hacer campaña electoral."

38 Lafleur, "Conclusiones. Ciudadanos en el exterior y participación electoral transnacional: Lecciones de la primera experiencia boliviana de voto en el exterior en las elecciones presidenciales del 2009," 161. Information obtained by the interview "Voto del emigrante boliviano."

39 Asamblea Legislativa Plurinacional, *Ley 026. Ley del Régimen Electoral*; Honorable Congreso Nacional, *Ley 1983. Ley de Partidos Políticos*.

40 Movimiento al Socialismo, "Estatuto Movimiento al Socialismo - Instrumento Político por la soberanía de los pueblos"; Movimiento Sin Miedo, "Movimiento Sin Miedo. Estatuto Orgánico"; Frente de Unidad Nacional, "Estatuto de La Unidad Nacional."

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## ADMINISTRATION

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### CONSULATES

In 2014, there were 80 consulates: 16 Consulates general; 30 regular consulates; four vice consulates; 30 honorary consulates.<sup>41</sup> In the same year, Bolivia also maintained 35 embassies.<sup>42</sup>

Furthermore, the consular network is broadened by mobile consulates and brigades as well as consular cooperation between the Mercosur members, Bolivia and Chile: Consulates of those countries offer consular services to the citizens of those member countries in countries where their home countries do not have consular representation.<sup>43</sup>

The consular network has improved in recent years, as Bolivia has increased the budget for consular services<sup>44</sup> in order to employ more consular staff, improve technological equipment, and support a broadened and more effective service to Bolivians via mobile consulates.<sup>45</sup>

Besides traditional consular functions, Bolivian consulates offer legal consultation and, if necessary, assistance in finding legal counsel;<sup>46</sup> housing, educational, and medical assistance;<sup>47</sup> and informative publications such as the monthly brochure, “Pachakuti.”<sup>48</sup>

### HOME COUNTRY ADMINISTRATION

There is no government institution that deals exclusively with emigrant policies. Instead, emigrant issues are divided between several institutions.

The Directorate General of Consular Affairs forms part of the Vice-Ministry of Institutional and Consular Management of the Ministry of Foreign Affairs<sup>49</sup> and is responsible for the support, protection, assistance, and liaison with Bolivian non-residents. Furthermore, it coordinates the work of the Mechanism for Inter-institutional Coordination for Migration.<sup>50</sup>

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41 Ministerio de Relaciones Exteriores del Estado Plurinacional de Bolivia, “Embajadas, Consulados y Secciones de Bolivia en el Exterior.”

42 Ibid.

43 Gobiernos Mercosur, Bolivia y Chile, “Acuerdo Sobre Residencia para Nacionales de los Estados Partes del Mercosur, Bolivia y Chile,” 8.

44 Paredes, Iván, “Choquehuanca Anuncia Reformas en Consulados Bolivianos en el Exterior.”

45 Consejo de Ministros, *Decreto Supremo 1853*, Art. 2, paragraph cIV.

46 Asamblea Legislativa Plurinacional, *Ley 370. Ley de Migración*, Art. 57, paragraph 7.

47 Ministerio de Relaciones Exteriores, Dirección General de Asuntos Consulares, “Guía del Ciudadano Boliviano y Boliviana en Argentina,” 5f.

48 Embajada de Bolivia en España, “Pachakuti. Retorno al equilibrio. Boletín Informativo.”

49 Ministerio de Relaciones Exteriores, “Dirección General de Asuntos Consulares.”

50 Ministerio de Trabajo, Empleo y Previsión Social, “Protección de los derechos de los migrantes andinos y la trata de personas,” 7.

The Directorate General for Migration handles emigration, immigration, and immigrant policies, especially the issuing of passports.<sup>51</sup> The National Council for Migrations is an inter-institutional initiative that is not yet in place.<sup>52</sup>

The Mechanism for Inter-institutional Coordination on Migration (*Mecanismo de Coordinación Interinstitucional para las Migraciones, MCIM*), composed of several state institutions and representatives from civil society.<sup>53</sup> The Mechanism was the main actor in the creation of the first Migration Law in Bolivian history,<sup>54</sup> which, despite focusing more on immigrant policies, provided some first legal steps towards an integral protection and integration of emigrants, by granting the protection of fundamental rights and providing some regulation about return policies, as well as about consular responsibilities.

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## ECONOMIC POLICIES

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### REMITTANCES

Although remittances make up an important part of the Bolivian economy (between 1997 and 2007, remittances had increased tenfold, making up 7.7% of the GDP in 2007; before diminishing since then due to the global economic crisis<sup>55</sup>), being an important support for many households,<sup>56</sup> the Bolivian State doesn't provide incentives to attract remittances.

Nevertheless, there seem to be some steps towards a state-driven remittance policy: First, because the National Survey of 2008 included for the first time the category 'remittances'.<sup>57</sup> And second, the Central Bank of Bolivia made numerous efforts during 2011 and 2012 to regulate the Bolivian remittances market.<sup>58</sup> Until now, the Bolivian remittances market is controlled by the international remittance companies, and is characterized by a high degree of informality.<sup>59</sup>

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51 Ministerio de Gobierno, "Dirección General de Migración."

52 Hinojosa Gordonova, Alfonso, "Bolivia: Diaspora and Emigration Policies," 10.

53 Mecanismo de coordinación interinstitucional para las migraciones, "Recuperar la dignidad migratoria: hacia un Consejo Sudamericano para las migraciones. X Conferencia Sudamericana sobre Migraciones."

54 Asamblea Legislativa Plurinacional, *Ley 370. Ley de Migración*.

55 Mandrile, Matteo, "El Corredor de remesas Sur-Sur. Argentina-Bolivia," 15.

56 Ibid. 11.

57 Pereira Morató, René, "Perfil migratorio de Bolivia," 53.

58 Mandrile, Matteo, "El Corredor de remesas Sur-Sur. Argentina-Bolivia," 36ff.

59 Ibid. 46.

## INVESTMENT

In line with the lack of a state-driven remittance policy, the state does not provide incentives to attract emigrant investments. In any case, the results of the National Survey reveal that the vast majority of the received remittances are spent to satisfy basic needs (food, education, clothing, debts, and healthcare) and that, as a consequence, the scope for investment is quite limited.<sup>60</sup>

Furthermore, there are several international organizations that aim to stimulate the remittance-related investments.<sup>61</sup>

## BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

The Bolivian state has not implemented programs for the return of highly qualified nationals nor regarding brain-gain networks.<sup>62</sup>

Bolivia has ratified a number of agreements on liberalizing student visa policies.<sup>63</sup>

## RETURN POLICIES

Bolivia's recent migration has been characterized by rising numbers of emigrants. Nevertheless, there have also been returnees, often those forced to return due to their undocumented immigration status.<sup>64</sup>

Bolivia has a number of agreements in place for the recognition of professional or academic qualifications obtained abroad. If the qualification was obtained in countries with mutual treaties with Bolivia (ALBA-members,<sup>65</sup> Cuba,<sup>66</sup> Argentina;<sup>67</sup> MERCOSUR-members and Chile<sup>68</sup>), the degree and sup-

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60 Pereira Morató, René, "Perfil migratorio de Bolivia," 52.

61 Hinojosa Gordonova, Alfonso, "Bolivia: Diaspora and Emigration Policies," 11f.

62 Pereira Morató, René, "Perfil migratorio de Bolivia," 97.

63 Hinojosa Gordonova, Alfonso, "Análisis descriptivo de las instituciones responsables de la gestión de las políticas migratorias en Bolivia, Colombia, Ecuador y Perú," 11.

64 Hinojosa Gordonova, Alfonso, "Bolivia: Diaspora and Emigration Policies," 8.

65 Asamblea Legislativa Plurinacional, *Ley 334. Ratifica el convenio de reconocimiento de títulos o diplomas de educación superior entre los países miembros de la Alternativa Bolivariana para los Pueblos de Nuestra América (ALBA)*.

66 Asamblea Legislativa Plurinacional, *Ley 220. Ratifica El Convenio de reconocimiento mutuo de estudios, títulos y diplomas de educación superior entre el gobierno del Estado Plurinacional de Bolivia y el Gobierno de la República de Cuba*.

67 Asamblea Legislativa Plurinacional, *Ley 361. Ratifica el Convenio de reconocimiento mutuo de títulos y grados académicos de educación superior entre la República Argentina y el Estado Plurinacional de Bolivia*.

68 Estados Partes del MERCOSUR, República de Bolivia, and República de Chile, "Memorandum de Entendimiento sobre la creación e implementación de un Sistema de Acreditación de Carreras Universitarias para el Reconocimiento Regional de la Calidad Académica de las Respectivas Titulaciones en el MERCOSUR y Estados Asociados"; Gobiernos Mercosur, Bolivia y Chile, "Acuerdo sobre residencia para nacionales de los estados partes del Mercosur, Bolivia y Chile," 9f.



porting documents, once legalized by the authorities in the countries where the title was acquired, must be presented to the Bolivian consulate in that country. Once in Bolivia, the documents have to be legalized at the Ministry of Foreign Affairs. Finally, the Ministry of Education recognizes the qualification.<sup>69</sup>

Qualifications obtained in another country require the same procedure, but instead of the Ministry of Education, the Executive Council of the Universidad Boliviana, and potentially the relevant faculties, makes the final decision.<sup>70</sup>

In neither case is a time frame for the validation provided.<sup>71</sup>

Although the Migration Law establishes a broad range of efforts regarding return policies (protection, assistance, return and reintegration),<sup>72</sup> until now, Bolivia has not developed return or reintegration politics.<sup>73</sup>

The Bolivian state has not conducted communication campaigns to convince emigrants to return to Bolivia, beyond a return guide for Bolivian emigrants, created in cooperation with the IOM.<sup>74</sup>

However, there are financial incentives for returnees. Emigrants who return after at least two years abroad,<sup>75</sup> are exempted from import duties on household items and professional tools.<sup>76</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

The Constitution establishes that all Bolivians must serve in the military.<sup>77</sup> However, the laws addressing military service are relatively old and do not mention emigrants.<sup>78</sup> It is unclear whether emigrants must comply with military service.

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69 Ministerio de Educación, “Revalidación y homologación de título extranjero. requisitos trámite de título profesional.”

70 Comité Ejecutivo de la Universidad Boliviana CEUB, “Reglamento general de títulos y grados académicos,” Art.17-34.

71 Agencia Catalana de Cooperación al Desenvolupament and Generalitat de Catalunya, “Manual para el retorno a Bolivia,” 10.

72 Asamblea Legislativa Plurinacional, *Ley 370. Ley de Migración*, Art.60-64.

73 Fundación Internacional y para Iberoamérica de Administración y Políticas Públicas and Organización Internacional para las Migraciones, “Díspora y mercado de trabajo en Bolivia. Una mirada pensando en el retorno voluntario,” 46.

74 Ministerio de Relaciones Exteriores and Organización Internacional para las Migraciones, “Volviendo a casa. Guía de retorno para el migrante Boliviano.”

75 Asamblea Legislativa Plurinacional, *Ley 370. Ley de Migración*, Art. 61.

76 Consejo de Ministros, *Decreto Supremo 1639. Introduce Modificaciones al Reglamento a la Ley General de Aduanas*, Art. 192.

77 Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art. 249 .

78 Honorable Congreso Nacional, *Ley 1405. Ley Orgánica de las Fuerzas Armadas de la Nación*; Honorable Junta Militar de Gobierno, *Decreto Ley 07755*.

Social service does not exist in Bolivia. However, medical professionals must do six months social service before getting their medical license. This also applies to Bolivians educated abroad.<sup>79</sup>

As long as Bolivian non-residents do not obtain revenues from Bolivian sources, they are not required to pay taxes in Bolivia.<sup>80</sup>

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## CULTURAL POLICIES

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Cultural policies targeting Bolivian non-residents are practically nonexistent. There is no funding for cultural centers abroad, nor cultural promotion offices in consulates.<sup>81</sup>

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## EXIT AND TRANSIT POLICIES

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The Constitution establishes the right for every Bolivian to enter and exit the country freely.<sup>82</sup>

The Bolivian State has not conducted broad information campaigns about emigrants' rights and duties. There have been some local campaigns to inform the Bolivians about their rights, duties, and the possible dangers associated with emigration.<sup>83</sup>

The Bolivian State does not conduct information campaigns to discourage emigration or to promote a safe transit to the destination country.

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## SOCIAL POLICIES

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Although until now, the Bolivian State does not provide social services to its emigrants, in the last years, there have been efforts to strengthen the emigrants' living conditions in social terms, especially through the ratification of the Multilateral Ibero-American Social Security Agreement and some bilateral agreements about free student visa.

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79 Consejo de Ministros, *Decreto Superior 26217. Reglamento del Servicio Social de Salud Rural Obligatorio*, Art. 15.

80 Servicio de Impuestos Nacionales, *Ley 2492. Código Tributario Boliviano*, Art. 1-3.

81 Ministerio de Culturas y Turismo, "Ministerio de Culturas y Turismo."

82 Asamblea Constituyente de Bolivia y Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia*, Art.21, N° 7.

83 Comité de Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares, "Examen de los informes presentados por los estados partes de conformidad con el artículo 73 de la Convención: Estado Plurinacional de Bolivia," 32.

The Bolivian state does not provide the possibility for Bolivians living abroad to maintain employment, retirement, or healthcare benefits, as these are limited to residents.<sup>84</sup>

However, on the basis of the Multilateral Iberoamerican Social Security Agreement, ratified by the Bolivian government in 2011, Bolivians who reside in one of the other signatory countries are able to receive employment and retirement benefits from their country of residence.<sup>85</sup>

The Plurinational Alternative Education Center (subordinated to the Ministry of Education), with the help of the consular network, promotes distance education programs aimed at the emigrant adult population, offering them high school or senior technical qualifications.<sup>86</sup> The programs are carried out in the consulates in Argentina, Brazil, and Spain.<sup>87</sup>

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### SYMBOLIC POLICIES

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Bolivia hasn't conducted official communication campaigns that aimed to reinforce the sentiment of belonging to Bolivia. Bolivia's current President, Evo Morales, has directly addressed Bolivian emigrants in several occasions. In 2007, for the National Day, he dedicated a paragraph of his speech to the emigrants,<sup>88</sup> and has thanked emigrants for contributing to the development of Bolivia.<sup>89</sup> There are no awards for Bolivian emigrants, nor state-organized emigrant conferences.

On the national day, emigrants are not targeted especially, nor has the Bolivian state created a national day devoted to the diaspora.

The Constitution only refers to emigrants in the context of external

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84 Asamblea Legislativa Plurinacional, *Ley 065. Ley de Pensiones* Definiciones aplicables: Beneficiarios.

85 Organización Iberoamericana de Seguridad Social, "Convenio Multilateral Iberoamericano de Seguridad Social," 3.

86 Hinojosa Gordonova, Alfonso, "Bolivia: Diaspora and Emigration Policies," 10.

87 Fundación Internacional y para Iberoamérica de Administración y Políticas Públicas and Organización Internacional para las Migraciones, "Díaspóra y mercado de trabajo en Bolivia. Una mirada pensando en el retorno voluntario," 46.

88 De la Torre, cited in: Lafleur, Jean-Michel, Hinojosa Gordonova, and Domenech, Eduardo, "Surgimiento y desarrollo del 'Voto En El Exterior' en el 'Proceso de Cambio' Boliviano," 50f.

89 Ministerio de Relaciones Exteriores, Dirección General de Asuntos Consulares, "Guía del Ciudadano Boliviano y Boliviana en Argentina," 1.

voting,<sup>90</sup> and the responsibilities of the ombudsman's office,<sup>91</sup> which are, amongst others, the defense of the emigrants' rights. Bolivia has not created new symbolic territorial entities for emigrants.

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- . *Ley 026. Ley del Régimen Electoral*, 2010. <http://pdba.georgetown.edu/Electoral/Bolivia/Ley26-2010.pdf>.
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<sup>90</sup> Asamblea Constituyente de Bolivia and Pueblo Boliviano, *Constitución Política del Estado Plurinacional de Bolivia* Art.27, paragraph 1.

<sup>91</sup> Ibid. Art. 218.

- Honorable Congreso Nacional. *Ley 1405*. Ley Orgánica de las Fuerzas Armadas de la Nación, 1992. <http://www.lexivox.org/norms/BO-L-1405.xhtml>.
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# BRAZIL

Brazil was long considered an immigration country,<sup>1</sup> particularly following the Japanese and European migration flows in the late 19th and early 20th centuries. The current immigration laws were passed during the military dictatorship (1964-1980). As a consequence, they still reflect the military perceptions of the National Security Doctrine<sup>2</sup> and the context of the Cold War, forbidding immigrants to undertake political activity.<sup>3</sup> According to the Brazilian Institute for Geography and Statistics, 500,000 Brazilians live abroad, though the Brazilian Ministry of Foreign Affairs reports figures as high as 3 million.<sup>4</sup>

Emigration, in contrast, only entered the national political agenda in the mid-1980s. In 2002, while still a presidential candidate, Luiz Inácio Lula da Silva wrote an open letter to Brazilian emigrants,<sup>5</sup> promising to incorporate emigrant-friendly policies into his campaign platform. However, prior to a decree<sup>6</sup> enacted in the final year of Lula's second presidential term, no official policy regulated the situation of Brazilian emigrants. Accordingly, the official sources cited in this chapter are all fairly recent. The Ministry of Foreign Affairs concentrates nearly all policies concerning Brazilian emigrants under its Under-Secretary-General for Brazilian Communities Abroad, though there is sporadic cooperation with the Ministries of Education, Labor, and Finance.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The Constitution speaks of Brazilian nationality in lieu of Brazilian citizenship. There are no legal obstacles for individuals who are dual or multiple nationalities by birthright. However, individuals who acquire another nationality (derivative nationality) lose the Brazilian one.<sup>7</sup> Since the constitutional reform of June, 1994, this article was amended to include two exceptions. Dual or

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1 International Organization for Migration, Ministério do Trabalho e Emprego (MTE), and Comissão Nacional de População e Desenvolvimento (CNPd), *Perfil migratório do Brasil 2009*. 11.

2 Rossana Rocha Reis, "A política do Brasil para as migrações internacionais." 59.

3 Presidência da República, *Lei Nº 6.815, de 19 de Agosto de 1980. Define a situação jurídica do estrangeiro no Brasil, cria o Conselho Nacional de Imigração*, 1980, Art. 65, 107.

4 Ministério das Relações Exteriores, "Brasileiros no mundo: Censo IBGE estima brasileiros no exterior em cerca de 500 Mil."

5 Rossana Rocha Reis, "A política do Brasil para as migrações internacionais," 51,52.

6 Presidência da República, *Decreto Nº 7.214, de 15 de junho de 2010. Estabelece princípios e diretrizes da política governamental para as comunidades brasileiras no exterior*, 2010.

7 Congresso Nacional do Brasil, *Constituição da República Federativa do Brasil de 1988*.



multiple nationalities are now accepted if Brazilian nationality is simultaneously recognized by foreign law and the acquisition of an additional nationality (through naturalization) is imposed as a condition for the Brazilian national to remain residing in another country or exercise his/her civic rights. In such cases, dual or multiple nationalities are accepted, provided the individual obtains written authorization from the Ministry of Foreign Affairs.<sup>8</sup> In practice, however, it is known that these strict conditions are not applied: acquisition of another country's nationality does not cause the loss of the Brazilian one and those who lost it before may apply for its reinstatement, as the loss only applies when the individual expresses and demonstrates his/her will to effectively change nationality.<sup>9</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

Natural born Brazilians (that is, individuals who are entitled to Brazilian nationality at birth) can only lose their nationality in the specific cases outlined above; through acquisition of a foreign nationality without meeting any of the two exception criteria.

Naturalized Brazilians can lose their nationality if the court considers them to engage in activities harmful to the national interest.<sup>10</sup>

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Active electoral registration is compulsory for all Brazilians, except those under 18, over 70, disabled or living abroad. Voting per se is also compulsory for all Brazilians between 18 and 70, except for those who are illiterate, sick, away from their electoral district, or performing civil/military duties that prevent them from voting.<sup>11</sup> However, the electoral code offers contradictory formulations.

"All Brazilians" seems to encompass all resident Brazilians. While every Brazilian must vote, there is the abovementioned exception for citizens living abroad. A chapter dedicated to overseas voting stipulates that non-resident voters can vote for president and vice-president,<sup>12</sup> yet neither registration nor actual voting is assumed to be a duty of non-residents. Instead, they are ex-

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8 Consulado-Geral do Brasil em Frankfurt am Main, "O direito à nacionalidade brasileira."

9 Consulado-Geral do Brasil em Paris, "Dupla Nacionalidade"; Presidencia da República, *Emenda Constitucional de Revisão N.3, de 7 de Junho de 1994*.

10 Congresso Nacional do Brasil, *Constituição da República Federativa do Brasil de 1988*.

11 Presidência da República, *Lei nº 4.737, de 15 de julho de 1965. Institui o Código Eleitoral*, 1965, Art. 6.

12 Ibid. Art. 225.

pected to file a leave of absence (*justificativa eleitoral*) every election round. The penalties for not voting and not filing a leave of absence are identical for both residents and non-residents.<sup>13</sup>

Though non-resident citizens can only vote for president and vice-president, there have been attempts to expand such provisions: in 2005, Senator Cristovam Buarque presented a constitutional amendment that would give non-resident citizens the right to vote for the National Congress. The amendment is still in discussion.<sup>14</sup>

In 2014, 353,536 non-residents registered to vote, and 141,501 (40.03%) effectively voted in the first presidential round, with 141,873 (40.21%) in the second.<sup>15</sup> Such figures may explain why the electoral code makes so little reference to emigrant voters and no legislation was ever passed to expand their voting rights: there is simply not enough interest.

Though Brazil adopts a civil law system (with statutes and legislation as the primary source of law), the lack of regulation for specific circumstances related to migration forces us to resort to individual decisions or concrete cases. Indeed, when contacted, the Federal District's Regional Electoral Court (*Tribunal Regional Eleitoral, TRE-DF*) clarified that referenda are regulated by the Supreme Electoral Court (*Tribunal Superior Eleitoral, TSE*) on a case-by-case basis.<sup>16</sup> For instance, the law passed by the TSE to regulate the 2005 referendum on firearms and ammunition (the only national referendum organized in the past 20 years) delimited the voting circumscription to the national territory.<sup>17</sup> Accordingly, the results of the 2005 referendum included no votes for non-resident citizens,<sup>18</sup> as they lived outside the circumscription and were not allowed to vote.

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Constitution requires candidates to be native Brazilians aged 35 or over, but not to live on Brazilian soil. Though the situation seems improbable, a non-resident citizen is not legally prevented from running for president.<sup>19</sup>

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Non-resident citizens can only vote in person. There is no proxy, postal, advance, or e-voting via internet.

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13 Ibid. Art. 231.

14 Cristovam Buarque, "PEC - Proposta de Emenda à Constituição, Nº 5 de 2005."

15 Tribunal Superior Eleitoral, "Estatísticas eleitorais 2014."

16 Presidência da República, *Lei Nº 9.709, de 18 de Novembro de 1998. Regulamenta a execução do disposto nos incisos I, II E III Do Art. 14 da Constituição Federal*, Art. 8.

17 Tribunal Superior Eleitoral, *Resolução Do TSE Nº 22.036/2005*, Art. 6.

18 Tribunal Superior Eleitoral, "Referendo de 2005."

19 Congresso Nacional do Brasil, *Constituição da República Federativa do Brasil de 1988*, Art. 12, II, §3 and Art. 14, §3, VI a.

Citizens living abroad for over three months and registered in advance can vote exclusively at the nearest Brazilian consulate/embassy. However, an electoral district in a foreign country can only be allocated if a minimum of 30 external electors register, otherwise electors are expected to vote at the nearest electoral district.<sup>20</sup> Additionally, non-residents may vote in Brazil, as part of the *Voto em trânsito* program (which stipulates that citizens can vote in a jurisdiction other than their own, provided they register in advance).

### REGISTRATION FOR FRANCHISE

As outlined above, both resident and non-resident citizens must register in order to vote. At the moment of registration or transfer of electoral district, voters are expected to live in their current electoral district for at least three months. The same applies for non-resident citizens (active registration and then automatic, as long as they remain in that district), but they must register at least 150 days in advance of the election<sup>21</sup> at the politico-electoral circumscription abroad, *Zona Eleitoral do Exterior* (*Zona ZZ*). *Zona ZZ* was created in 2003 and consolidates all non-resident Brazilians votes, regardless of their country of residence.<sup>22</sup>

No official policy promotes the participation of emigrant voters. Consulates usually promote the registration and participation of emigrant voters in a decentralized fashion, through mailing lists, posters, and through their web pages; there is no formalized campaign per se.<sup>23</sup>

### MODE OF REPRESENTATION

Registered non-resident citizens are not allowed to vote for the legislative and are thusly not represented.

### EXTERNAL VOTING IMPLEMENTATION

All currently existing legal provisions for external voting have been implemented, though only for national presidential elections. According to the Brazilian Constitution, both chambers of Congress shall be composed of representatives from the federal states and the federal district.<sup>24</sup> The representation of citizens living outside the federal states or the federal district is not envisioned.

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20 Presidência da República, *Lei N° 4.737, de 15 de Julho de 1965. Institui O Código Eleitoral*.

21 Ibid. Art. 226.

22 Tribunal Regional Eleitoral, “Eleitor no exterior.”

23 Embaixada do Brasil em Berlim, “Respostas ao instituto GIGA.”

24 Congresso Nacional do Brasil, *Constituição da República Federativa do Brasil de 1988*, Art. 45 and 47.

## REGULATION OF POLITICAL COMPETITION

Political competition is not regulated beyond national borders, which is why political parties are not barred from maintaining external offices.<sup>25</sup> Nevertheless, Brazilian law is very sensitive to foreign intervention: parties must not be subordinated to foreign entities or governments<sup>26</sup> and any party that receives funds from abroad or is considered to be subordinated to foreign entities or governments will have its civil registration revoked by the electoral court.<sup>27</sup> This may explain why Brazilian parties refrain from having external offices, choosing instead to present their representations abroad as “committees” or “groups.” For instance, while the statute of the governing Workers’ Party (*Partido dos Trabalhadores*, PT) acknowledges members’ right to gather abroad” it carefully avoids the expression “external office.”<sup>28</sup>

The PT has international committees in Argentina, Austria, Belgium, Chile, Cuba, France, Germany, Nicaragua, Paraguay, Spain, and the USA.<sup>29</sup> PT Londres, for instance, accepts donations, something that would presumably not be legal if it were an external office rather than a committee.<sup>30</sup>

Other than the PT, the parties with the highest number of representatives in Congress are the Brazilian Social Democracy Party (*Partido da Social Democracia Brasileira*, PSDB) and the Brazilian Democratic Movement Party (*Partido do Movimento Democrático Brasileiro*, PMDB), neither of which mention the existence of external offices in their statutes or acknowledge the right to create committees abroad. No external PSDB or PMDB office was found. This may have ideological reasons; of these three parties, only the center-leftist PT has international affiliations (*Foro de São Paulo*).

The public party fund (*Fundo Partidário*) allocates a specific amount for each party; within this amount, parties can spend as much as they want on external offices or committees, given that no legislation exists.<sup>31</sup>

## MEMBERSHIP

Voters in full possession of their political rights are allowed to join a party.<sup>32</sup> This means that membership is not restricted to resident citizens, though

25 Bruno Speck, “Forschung GIGA.”

26 Presidência da República, *Lei Nº 9.096, de 19 de Setembro 1995. Dispõe sobre Partidos Políticos*, Art. 5.

27 Ibid. Art. 28.

28 Partido dos Trabalhadores, *Estatuto do Partido dos Trabalhadores*, Art. 62.

29 Flávia Neme, “Núcleos no exterior.”

30 See <http://www.ptlondres.org.uk/pt/doacao.html>.

31 Bruno Speck, “Forschung GIGA.”

32 Presidência da República, *Lei Nº 9.096, de 19 de Setembro 1995. Dispõe sobre Partidos Políticos*, 1995.

parties usually reserve the right to decide whether emigrants can become members or not. In the case of the ruling *PT*, emigrant membership is presented to the Secretary of International Affairs and analyzed by the National Executive Commission of the party.<sup>33</sup> In theory, the party statute places no restriction on the candidacy of non-resident members; in practice, this seems very unlikely, as the candidate would need to obtain a majority of the national votes in order to be elected for an internal position.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The Representative Council of Brazilians Abroad (*Conselho de Representantes de Brasileiros no Exterior*, *CRBE*) assists the Ministry of Foreign Affairs on issues pertaining to the Brazilian community abroad.<sup>34</sup> The *CRBE* is composed of representatives from local councils, which in turn are usually located in countries where Brazil has a diplomatic representation. There are two types of local councils: In small communities, representatives can simply volunteer to join the Boards of Citizenship; in larger communities, representatives are elected to the Boards of Citizenship by fellow nationals living in that region.<sup>35</sup> Each local council, then, is entitled to one representative at the *CRBE*.

The consultation of emigrants is meant to be structural – according to law, the *CRBE* shall establish a “permanent dialogue” with Brazilian communities abroad. Additionally, the institution has autonomy to produce its own reports, studies, and recommendations, as long as these concern the interests of the Brazilian community abroad.<sup>36</sup> This was established in a bylaw passed by the Ministry of Foreign Relations.<sup>37</sup> Nevertheless, neither the bylaw nor the law envisions the right to get a response from national authorities;<sup>38</sup> the formal dialogue between the Ministry of Foreign Relations and the *CRBE* shall take place during regional, thematic or global meetings.<sup>39</sup>

The current leadership of the *CRBE* was elected in 2013, during the fourth and most recent Conference of Brazilians Abroad (*Conferência Bra-*

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33 Partido dos Trabalhadores, *Estatuto do Partido dos Trabalhadores*.

34 Presidência da República, *Decreto* Nº 7.214, de 15 de Junho de 2010. *Estabelece Princípios e diretrizes da política governamental para as comunidades brasileiras no exterior*, Art. 4-5.

35 Ministério das Relações Exteriores, *Portaria* Nº 376, de 4 de Julho de 2013.

36 Ibid., Seção 2, Art. 2, VIII.

37 Ibid.

38 Embaixada do Brasil em Berlim, “Respostas ao Instituto GIGA.”

39 Ministério das Relações Exteriores, *Portaria* Nº 376, de 4 de Julho de 2013 Seção 5, Art. 9.

*sileiros no Mundo*). The elections involve local councils rather than national authorities.<sup>40</sup>

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## ADMINISTRATION

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### CONSULATES

In 2010, Brazil had 185 consulates (including vice-consulates, general consulates and consular sectors in embassies) and 182 honorary consulates in 120 countries. Online consulate services are not available, nor are there weekend opening hours, but there are mobile consulates.<sup>41</sup> However, Brazilian consulates have taken on non-traditional tasks in recent years. Examples of non-traditional functions adopted by Brazilian consulates include the following:

- In 2012, the Brazilian consulate in Miami signed a partnership with Walgreens pharmacies to offer affordable medicine and healthcare to uninsured patients with a Brazilian passport. That year, around 300,000 Brazilians lived in Florida and benefitted from the program.<sup>42</sup>
- Several consulates around the world (e.g. Barcelona, Lisbon, London, Madrid, or Rome) offer free psychological counseling for Brazilian citizens, especially those under psychological stress (due to domestic violence, incarceration, human trafficking, etc.).<sup>43</sup>
- Since March 2013, the consulate in Munich offers preliminary legal counseling for non-resident Brazilian citizens. A similar service is also offered in Tokyo.<sup>44</sup>
- The Brazilian consulate in Hamamatsu, Japan runs the *Espaço do Trabalhador Brasileiro*, which targets Brazilian citizens residing in Japan and offers information on both the Brazilian and the

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40 Conselho de Representantes dos Brasileiros no Exterior (CRBE), “Estrutura e lista dos cargos votados Por ocasião da IV CBM.” As of 2015, the chair of the CRBE is held by the Board of Citizens of Beirut, who in turn appointed Rosalie Maurice Abou Assi as its spokesperson.

41 Ministério das Relações Exteriores, “Consulados itinerantes.”

42 Consulado-Geral do Brasil em Miami, “Consulado-Geral do Brasil em Miami e Walgreens assinam termo de compromisso que garantira descontos a comunidade brasileira nas clínicas médicas “Take Care.””

43 Ministério das Relações Exteriores, *Diplomacia Consular: 2007 a 2012*.

44 Consulado-Geral do Brasil em Munique, “Assistência jurídica para brasileiros no exterior.”, Consulado-Geral do Brasil em Tóquio, “Consulado Oferece Orientação Jurídica Gratuita em Português.”

Japanese labor markets.<sup>45</sup> The focus on Japan is explained by increasing flows of Japanese-Brazilians “returning” to Japan for short-term, unskilled work; these flows are encouraged by the Japanese government, which has an open immigration policy towards “ethnic Japanese.”<sup>46</sup>

- In Beirut, the Board of Citizens and the General Consulate of Brazil jointly prepared a brochure for Brazilian women living in Lebanon. The brochure presents real-life stories of Brazilian women suffering from domestic abuse, dealing with cultural shocks or facing problems due to the religious nature of Lebanese law.<sup>47</sup>

### HOME COUNTRY ADMINISTRATION

Since 2007, the Undersecretary-General for Brazilian Communities Abroad (*Subsecretário-Geral das Comunidades Brasileiras no Exterior*) is the main body in charge of emigrant policies in Brazil. It has the third rank in the public administration and belongs to the hierarchy of the Ministry of Foreign Affairs. Its aim is to strengthen relations between the Brazilian state and Brazilian communities abroad by offering consular assistance, managing the consular network, and tracking the activities of the CRBE.<sup>48</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The Brazilian state acknowledges emigrants’ right to send remittances.<sup>49</sup> *Caixa Econômica Federal*, a bank connected to the Ministry of Finance, offers a remittance program, *Remessas Internacionais*,<sup>50</sup> as does the country’s largest public bank, *Banco do Brasil*, through its program *BB Remessa*.<sup>51</sup> Additionally, the Central Bank of Brazil has published an informative brochure targeting citizens interested in performing financial transactions (low value remittances).<sup>52</sup>

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45 Consulado-Geral do Brasil em Hamamatsu, “Espaço do Trabalhador Brasileiro.”, Luiza Lopes da Silva, “Políticas de apoio aos imigrantes retornados: iniciativas da área consular do Ministério das Relações Exteriores do Brasil,” 297.

46 Takeyuki Tsuda, “Migration and Alienation: Japanese-Brazilian Return Migrants and the Search for Homeland Abroad,” 4.

47 Conselho de Cidadãos Brasileiros em Beirute, *Cartilha da Emigrante Brasileira no Líbano*.

48 Presidência da República, *Decreto Nº 7.214, de 15 de Junho de 2010. Estabelece princípios e diretrizes da política governamental para as comunidades brasileiras no exterior*, Art. 37-39.

49 Ministério do Trabalho e Emprego, “Direito a fazer remessas.”

50 Caixa Econômica Federal, “Remessas internacionais.”

51 Banco do Brasil, “BB Remessas.”

52 Banco Central do Brasil, *Cartilha de Câmbio: Envio e Recebimento de Pequenos Valores*.



In 2009, Brazil was the second biggest recipient of remittances in Latin America (behind Mexico), with \$USD5 billion per year, yet this represents less than 1% of the national GDP, showing that such funds are comparatively less important for Brazil than for other nations in the region.<sup>53</sup> In fact, according to Maldonado and Hayem, official remittance flows into Brazil have been declining consistently due to the improved economic situation, which has led many migrants to return to their home country.<sup>54</sup> Additionally, the *Declaración de Brasília rumbo a la ciudadanía sudamericana*, signed by Brazil, states that signatories are committed to not using remittances as a form of development aid.<sup>55</sup>

### INVESTMENT

Given that remittances are not as economically relevant for Brazil as they were in the past (or as they are for other countries), there are few official strategies to attract investments from emigrants. One pilot program, *Remessas e Capacitação para Emigrantes Brasileiros e seus Beneficiários no Brasil*,<sup>56</sup> targets emigrants in the US State of Massachusetts from the municipality of Governador Valadares, Minas Gerais, with a population 275,568 (2013),<sup>57</sup> 15% of which lives abroad.<sup>58</sup> The program is administered by the public bank, *Caixa Econômica Federal*, and offers financial and entrepreneurial education for both emigrants living in Massachusetts and their families in Governador Valadares, giving them resources to manage the domestic budget and invest their savings in Brazil. According to Silva, there are already plans to expand the geographic scope of the program.<sup>59</sup>

Additionally, *Caixa Econômica Federal* offers a line of credit for temporary emigrants interested in buying real estate, through *Crédito Imobiliário para Emigrantes*.<sup>60</sup>

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53 International Organization for Migration, Ministério do Trabalho e Emprego (MTE), and Comissão Nacional de População e Desenvolvimento (CNPd), *Perfil migratório do Brasil 2009*, 46.

54 René Maldonado, *Remittances to Latin America and the Caribbean in 2013: Still Below Pre-Crisis Levels*, 7.

55 Red Internacional de Migración y Desarrollo, “Declaración de Brasília Rumbo a la Ciudadanía Sudamericana,” 140.

56 Caixa Econômica Federal, “Remessas e capacitação para emigrantes brasileiros e seus beneficiários no Brasil.”

57 IBGE, *Cidades: Governador Valadares*, 2014.

58 Levitt and de la Dehesa, “Transnational Migration and the Redefinition of the State: Variations and Explanations,” 592.

59 Luiza Lopes da Silva, “Políticas de apoio aos imigrantes retornados: iniciativas da área consular do Ministério das Relações Exteriores do Brasil,” 300.

60 Caixa Econômica Federal, “Crédito imobiliário para emigrantes.”



### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Over the past decade, and especially under the Dilma Rousseff administration (2010-2014), the Brazilian government invested massively in the internationalization of universities. Created in 2011, the scholarship program, *Ciências sem Fronteiras*, will have awarded up to 101,000 study and research scholarships by 2015.<sup>61</sup> This program promotes circular migration, as students and researchers are required to return to Brazil after completing their studies abroad. On a smaller scale, the program also promotes brain-gain by attracting foreign researchers to Brazil.

*Rede Brasil Cultural*, a network created in the 1940s and managed by the Ministry of Foreign Affairs, finances cultural centers for Brazilian studies, and Brazil-related professorships in foreign universities.<sup>62</sup> Finally, research networks such as the Association of Brazilian Researchers and Students in France (*Associação dos Pesquisadores e Estudantes Brasileiros na França*, APEB-Fr) are institutionally supported by Brazilian embassies throughout Europe. Similar organizations exist in Portugal and Spain.

### RETURN POLICIES

Brazil's return policies are still fairly incipient. In fact, there is currently no coordinated strategy to reintegrate emigrants into society. Since 2013, the Ministry of Foreign Affairs has compiled information on relevant services in a brochure titled *Returning to Brazil: Useful Information on Available Services and Programs*.<sup>63</sup> Yet none of these programs or services was specifically designed for returnees. Still, the Ministry of Labor currently runs two pilot projects: the Nucleus of Information and Support for Workers Returning from Abroad (*Núcleo de Informação e Apoio a Trabalhadores Retornados do Exterior*) targets Brazilians returning from Japan and focuses on their reinsertion in the Brazilian labor market.<sup>64</sup> Meanwhile, the House of Migrant Workers in Oiapoque (*Casa do Trabalhador Migrante no Oiapoque*), located near the French Guianese border, targets citizens working in French Guiana. Here, emigrants can obtain information on their rights and duties, on the risks of undocumented migration and the possibilities should they choose to return to Brazil.<sup>65</sup> Additionally, the State of Goiás, in cooperation with the Brazilian Micro and Small Business Support Service (*Serviço Brasileiro de Apoio às Micro e Pequenas*

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61 For more information, see <http://www.cienciasemfronteiras.gov.br/web/cs-f/o-programa>.

62 Ministério das Relações Exteriores, "Centros Culturais Brasileiros, Departamento Cultural, Ministério Das Relações Exteriores."

63 Ministério das Relações Exteriores, *Guia de Retorno Ao Brasil*.

64 Ministério do Trabalho e Emprego, "Núcleo de informação e apoio a trabalhadores retornados do exterior (NIATRE)."

65 Ministério do Trabalho e Emprego, "MTE Inaugura Casa do Trabalhador Migrante em Oiapoque."

*Empresas*) and the Ministry of Foreign Affairs, supports local entrepreneurs returning from Atlanta, Austin, Dallas, or San Francisco and wanting to start a business (*Projeto Andorinhas – Migrante Empreendedor*).

In terms of academic and professional qualifications obtained abroad, direct recognition is possible. The recognition of primary and secondary education degrees is a responsibility of the State Secretaries of Education; interested citizens must present a translated copy of the school record to the Secretary of Education of the state in which they aim to take up residence. Along with Bolivia, Chile, and fellow MERCOSUR countries, Brazil has signed the *Protocolo de Integração Educativa e Reconhecimento de Certificados, Títulos e Estudos de Nível Fundamental e Médio Não-Técnico*<sup>66</sup> to facilitate the recognition of primary and secondary education attained in the respective signatory countries.

The recognition of tertiary education degrees is not as centralized, as public universities are in charge of recognition. Interested citizens need to find a Brazilian public university offering a degree that somewhat corresponds to the degree obtained abroad. Citizens should contact the nearest Brazilian embassy or consulate, check which documents need a legal translation and submit the appropriate translations to the chosen university, which has the autonomy to decide whether the qualifications will be recognized or not.<sup>67</sup> According to the law, there is a maximum period of 6 months in which the applications must be accepted or denied.<sup>68</sup>

For research and teaching purposes, Brazilian universities automatically recognize undergraduate and graduate degrees obtained in universities from other MERCOSUR members.<sup>69</sup> Degrees obtained under the Bologna process are not as easily recognized.

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Social service does not exist in Brazil, but upon turning 18, every Brazilian man living abroad must enlist for military service at the nearest consulate. He may defer his enlistment, but must report for military duty once back in

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66 Mercosur, *Protocolo de integración educativa y revalida de diplomas, certificados, títulos y reconocimiento de estudios de nivel medio técnico*, 199.

67 Presidência da República, *Lei Nº 9.394, de 20 de Setembro de 1996 - Lei de Diretrizes e Bases da Educação Nacional*.

68 Ministério da Educação, *Resolução CNE/CES Nº 8, de 4 de Outubro de 2007*.

69 Mercosur, *Protocolo de integración educativa para proseguimiento de estudios de post grado en las universidades de los estados partes del MERCOSUR*; Mercosur, *Acuerdo de admisión de títulos y grados universitarios para el ejercicio de actividades académicas en los estados partes del MERCOSUR*.

Brazil. Brazilian men between 19 and 45 who do not enlist for military service are not allowed to renew their passport, attend university, or work for the government.<sup>70</sup>

Permanent emigrants do not pay taxes, provided they present a declaration of definitive departure from Brazil (*Declaração de Saída Definitiva do País*). Likewise, temporary emigrants who are abroad for over 12 months may also present such a declaration and be exempt from their tax duties. If neither is the case, non-resident citizens have to pay the same taxes as resident citizens.<sup>71</sup>

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## CULTURAL POLICIES

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Created in the 1940s by the Ministry of Foreign Affairs, the *Rede Brasil Cultural* is a cultural network comprising 24 cultural centers, distributed in four continents and usually located within embassies. In fact, the Cultural Department of the Ministry of Foreign Relations considers them to be an extension of the embassies and offer Portuguese, photography, dance, art, and cooking classes. However, these centers do not directly target Brazilian emigrants; their chief aim is to encourage Brazilians and foreigners alike to engage with Brazil.<sup>72</sup>

As for cultural programs implemented by the state abroad, the public broadcasting channel TV *Brasil Internacional* is mainly available in Africa, Japan, Latin America, Portugal, and the United States; countries in which the Brazilian diaspora is concentrated. Broadcasts in Portuguese include documentaries, debates, news, and children's programs.

Since 2011, the Ministry of Foreign Affairs administers the Language and Culture Diffusion Program (*Programa de Difusão de Língua e Cultura*) as part of the abovementioned *Rede Brasil Cultural*. Children of Brazilian emigrants are believed to require a special education to retain their linguistic skills in a multilingual environment, which is why the program trains teachers in Portuguese as a heritage language.<sup>73</sup> The consulates also organize meetings of Brazilian children born abroad known as *Brasileirinhos* to stimulate their use of Portuguese and contact with Brazilian culture.<sup>74</sup>

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70 Presidência da República, *Lei N° 4.375, de 17 de Agosto de 1964. Lei do Serviço Militar*; Presidência da República, *Decreto N° 57.654, de 20 de Janeiro de 1966. Regulamenta a Lei do Serviço Militar*.

71 Portal Brasil, "Brasileiros que moram no exterior devem declarar o imposto de renda?"

72 Ministério das Relações Exteriores, "Centros culturais brasileiros, departamento cultural."

73 Ministério das Relações Exteriores, "Divisão de Promoção da Língua Portuguesa (DPLP), Departamento Cultural."

74 Rede Brasil Cultural - Itamaraty, "Consulado-Geral do Brasil em Genebra realiza programa 'Brasileirinhos em Genebra.'"

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## EXIT AND TRANSIT POLICIES

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There are neither political nor financial restrictions for citizens who want to go abroad and while emigration is not actively encouraged by the Brazilian state, it is not actively discouraged, either. Unskilled workers in vulnerable employment conditions are particularly targeted by official information campaigns. The *Orientações para o Trabalho no Exterior: Modelos, Jogadores de Futebol e Outros Profissionais Brasileiros* campaign, promoted by the Ministry of Foreign Affairs, informs soccer players, models, musicians, dancers, cooks, and capoeira teachers on human trafficking, labor rights, visa issues, and other problems frequently faced by emigrants. Citizens are also encouraged to contact the Office for Assistance to Brazilians (*Núcleo de Assistência a Brasileiros*), a subdivision of the Ministry of Foreign Affairs.<sup>75</sup>

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## SOCIAL POLICIES

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Brazilian social security benefits are established by the Ministry of Social Welfare and implemented by the National Institute for Social Security (*Instituto Nacional do Seguro Social, INSS*). In cooperation with the Ministry of Foreign Affairs, the Brazilian Ministry of Social Welfare has signed the Multilateral Ibero-American Convention of Social Security and the MERCOSUR Multilateral Agreement of Social Security.

Additionally, Brazil has signed bilateral social security agreements with Belgium, Canada, Cape Verde, Chile, France, Germany, Greece, Italy, Japan, Luxemburg, Portugal, South Korea, and Spain. Finally, bilateral social security agreements have been signed and need to be ratified by the Brazilian Congress: USA and Switzerland, besides the agreement with the Community of Portuguese Language (CPLP, an alliance of countries with Portuguese as official language).<sup>76</sup> In these countries, both retirement and employment benefits may be maintained after emigration provided one of the following circumstances applies: a) Temporary emigration: if a Brazilian citizen emigrates for a limited period of time (variable from country to country, e.g. 24 months for Germany and 5 years for Japan), he/she may be exempted from affiliation to the social security of the host country, remaining instead registered at the Brazilian social security system; b) in the case of emigration to Greece, Portugal, and Spain, social benefits can be transferred to the respective social security systems, as established by bilateral agreements; c) in the case of emigration to

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75 Ministério das Relações Exteriores, “Orientações para o trabalho no exterior: modelos, jogadores de futebol e outros profissionais brasileiros.”

76 Ministério da Previdência Social, “Assuntos Internacionais - Acordos Internacionais.”

Chile, Italy and Portugal, benefits can be paid in local bank accounts without additional costs.<sup>77</sup>

In other countries, emigrants may register voluntarily at the *INSS*, but the benefits can only be paid into Brazilian bank accounts.

As for healthcare benefits, the Brazilian Constitution establishes healthcare as a duty of the state.<sup>78</sup> Accordingly, every Brazilian citizen is entitled to free healthcare in Brazil. These benefits may be maintained in other selected countries. Brazilians registered at the *INSS* are entitled to the Certificate of Entitlement to Medical Assistance (*Certificado de Direito a Assistência Médica*),<sup>79</sup> a certificate that covers medical care in the public health systems of Argentina, Cape Verde, Chile, Greece, Italy, Luxemburg, Portugal, Spain, and Uruguay.

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### SYMBOLIC POLICIES

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The Brazilian community abroad seems to be strongly and independently organized, particularly in countries with stronger migration inflows, such as Japan, the UK, and the USA. The Brazilian government has discovered these communities only recently and is now catching up, establishing ties with already existing networks and promoting official attempts to reinforce the sense of belonging amongst non-resident citizens. To strengthen ties with young emigrants, the Ministry of Foreign Affairs periodically organizes the *Brasileirinhos no Mundo* drawing contest, which targets non-resident Brazilians between the ages 6 and 12.<sup>80</sup>

Since 1995, the Ministry of Foreign Affairs, in collaboration with *Banco do Brasil*, *TV Globo* and TAM Airlines, presents the annual Brazilian International Press Award to individuals, institutions and initiatives committed to promoting a positive image of Brazil in the USA. Since 2011, the prize has also been awarded to emigrants living in Japan and the UK.<sup>81</sup> The same collaboration led to *Focus Brasil: Congresso Internacional de Cultura, Mídia e Comunidade Brasileira*, an annual conference organized in Miami since 2006 to discuss topics related to Brazil's global image and the Brazilian community abroad. Since 2011, similar events are also organized in London and Tokyo.

Since 2010, short informative events were organized in Japan (Hamamatsu, Nagoya, and Tokyo), Switzerland (Geneva), Portugal (Faro and Lisbon), French Guiana (Cayenne and others) and the USA (Boston). The *Semanas do Trabalhador Brasileiro no Exterior* event present the Brazilian labor market, the

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<sup>77</sup> Ibid.

<sup>78</sup> Congresso Nacional do Brasil, *Constituição da República Federativa do Brasil de 1988*.

<sup>79</sup> Sistema Nacional de Auditoria (SNA), "Certificado de Direito a Assistência Médica (CDAM)."

<sup>80</sup> Ministério das Relações Exteriores, "Edital: Concurso Brasileirinhos 2014."

<sup>81</sup> Ministério das Relações Exteriores, *Diplomacia Consular: 2007 a 2012*.

social security system, and information on remittances, migration rights, and return policies.<sup>82</sup>

Since 2008, the *Conferência Brasileiros no Mundo* is organized by the Ministry of Foreign Affairs and aims to strengthen the communication between the Brazilian government and communities of Brazilians abroad.<sup>83</sup> Though these conferences should happen regularly, only four meetings have been organized to date: in 2008, 2009, 2010, and 2013. Judging by the program of each conference, the focus is less on non-resident Brazilian citizens and more on authorities, diplomats, or migration experts.<sup>84</sup>

The biggest celebration day amongst Brazilian emigrants is still privately funded. Since the mid-1980s, Brazilian Day takes place every year in New York, usually around Brazilian Independence Day (September 7). Similar events also take place in Canada, Japan, and the United Kingdom. These are neither organized nor funded by the Brazilian state.

More than a simply symbolic territorial entity created officially outside Brazil, the politico-electoral circumscription abroad, the *Zona Eleitoral do Exterior* (*Zona ZZ*), compiles the votes of all non-resident Brazilian voters, regardless of their country of residence.<sup>85</sup>

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82 Luiza Lopes da Silva, “Políticas de apoio aos imigrantes retornados: iniciativas da área consular do Ministério Das Relações Exteriores Do Brasil,” 298.

83 Presidência da República, *Decreto Nº 7.214, de 15 de Junho de 2010. Estabelece princípios e diretrizes da política governamental para as comunidades brasileiras no exterior*.

84 Ministério das Relações Exteriores, “2013 - IV Conferência Brasileiros no Mundo.”

85 Tribunal Regional Eleitoral, “Eleitor no exterior.”

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## CHILE

There are three episodes in Chilean emigrant history: In the decades before the Pinochet dictatorship, Chileans emigrated mostly due to economic reasons, particularly to Argentina; during the dictatorship (1973-1990), the vast majority emigrated because of political repression or persecution; today, Chileans leave their country in search of professional, economic, or academic opportunities. The mix of these two waves has resulted in an increasingly complex migration profile: While until the 1990s it was possible to speak about the Chilean diaspora as being bonded transnationally by a culture of exile, the emigrant communities of the last 15 years have become much more diverse in their political orientations, skill composition, and reasons for emigration.<sup>1</sup> Currently, around 850,000 Chileans (out of 18 million) reside abroad, of whom 43% were born abroad and 57% in Chile.<sup>2</sup> More than 50% of the Chilean diaspora lives in Argentina, which therefore constitutes the main target of Chilean emigrant policies.<sup>3</sup>

Chile is not affected negatively by emigration, as for example in terms of brain-drain. On the contrary, the migration rate in Chile shows net immigration.<sup>4</sup> Chile's economy does not rely on remittances and therefore does not depend on emigrants to the same extent as other Latin American countries.

Still, Chilean emigrant policies have developed considerably in recent years. State institutions provide Chilean non-residents with a broad range of services and information, and several cultural programs and symbolic policies suggest that recent governments are interested in keeping Chilean non-residents connected with Chile. In the light of globalization, political decision makers have recognized the importance of Chilean non-residents acting as brokers between Chile and the international system.

During the dictatorship, the government turned a blind eye to emigrants: Many were political opponents and had fled political persecution; as a consequence, they were not just enemies due to ideological differences, but also did not fit in the nationalist image that dominated political thinking in those days. Thus, nationality law was based on *jus soli*, excluding second and further generations of non-residents from Chilean nationality. Furthermore,

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1 Del Pozo, "Los chilenos en el exterior: ¿De la emigración y el exilio a la diáspora? El caso de Montréal."

2 Cataldo Moya and Muñoz Saavedra, "Nacionalidad y ciudadanía; problemática del derecho a sufragio de los chilenos en el extranjero," 164.

3 For example, the *Infobus* only worked in Argentina, and also the program *Chile sigue contigo* focusses mainly on Argentina. For further information, see "Administration/ Consulates."

4 Agar Corbinos, "Población y migraciones: pensando el Chile del futuro."

external voting was not granted by law (although between 1973 and 1989, there were no elections in dictatorial Chile, with the exceptions of the controversial 1980 Constitutional plebiscite and the 1988 plebiscite which ended military power). The articles that regulated voting, as the Chilean Constitution as a whole, were relics of dictatorial times.

Thanks to the late emigrant policy efforts that started to emerge after President Ricardo Lagos assumed office, Chilean non-residents have slowly gone from being an unwanted, exiled group to a recognized part of the Chilean citizenry, culminating in the enactment of the right to vote from abroad in 2014, for which Chileans abroad had long fought.<sup>5</sup>

Chilean emigrant policies, until the electoral reform of 2014, had been limited to some social, cultural, and economic rights. In recent years, starting with the first presidency of Michelle Bachelet (Socialist party, *Concertación* coalition), more policies appeared in other dimensions. Despite some administrative rearrangements, most of the policies remained through the presidency of Sebastián Piñera of the conservative party *Renovación Nacional*, pointing to some degree of institutionalization. To some observers, however, the amount of resources allocated to the engagement of the state with its diaspora remained minimal and revealed a persistent distrust between the diplomatic class and the emigrants (many of whom are seen as, or still consider themselves exiles).<sup>6</sup> Emigrant policies have been reinvigorated in the second presidency of Ms. Bachelet, with the impulse she gave to the bill drafted in 2013 by senators of different parties to grant external franchise to the Chilean diaspora.<sup>7</sup> After several failed attempts in the past (in 1991, 1993, 2005, 2006, and 2010), this bill was passed unanimously by the Chilean congress, becoming law. As soon as the organic law regulating external voting is passed, published, and later implemented, Chilean non-residents will be able to vote abroad. Although emigrant policies have improved since 2000, some authors argue that it cannot be said that Chile has reached a new episode of emigrant policies until external voting is implemented.<sup>8</sup> External voting will still be limited to presidential elections and plebiscites; as a consequence, Chilean emigrants will not have any influence on legislative institutions, nor will they have special migrant representatives. It remains to be seen if external voting is implemented in a way that allows the vast majority of the Chilean diaspora to access the ballot.

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5 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Ley 20748. Reforma Constitucional que regula el ejercicio del sufragio de los ciudadanos que se encuentran fuera del país*.

6 Brickle, Norambuena, and Saaverda, “Chile, el capitalismo mundial integrado - CMI - y la diáspora chilena.” Pg. 91.

7 For restrictions and further information regarding external voting, see “Suffrage.”

8 Cano Christiny, Contrucci, and Pizarro, “Conocer para legislar y hacer política. Los desafíos de Chile ante un nuevo escenario migratorio,” 64.

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## CITIZENSHIP/NATIONALITY

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The Chilean Constitution distinguishes between citizenship and nationality. Citizens are Chileans that have reached the age of 18 and have not been convicted of a felony.<sup>9</sup> Chilean nationals (*chilenos*) are those born in Chile (save for children of diplomats or foreigners in transit, who may voluntarily seek Chilean citizenship); children born abroad to Chileans; foreigners who have obtained the Chilean nationality card; and those who have been granted nationality through special merit.<sup>10</sup>

### DUAL OR MULTIPLE NATIONALITY REGULATION

Until 2005, Chile did not allow dual nationality of any kind. However, the constitutional reform in 2005 inaugurated greater acceptance and tolerance regarding the acquisition of dual nationality: Chile now accepts dual nationality with all countries.<sup>11</sup> This means that foreigners applying for Chilean nationality are not required to renounce their original nationality, and, vice versa, Chileans do not lose their nationality when applying for another nationality, unless they voluntarily renounce their original nationality.<sup>12</sup> The reform aims at prevention of stateless persons (as the renunciation of nationality now requires the previous nationalization in another country<sup>13</sup>).

Chile continues to have a (now redundant) dual nationality treaty with Spain.<sup>14</sup>

Since 2005, Chilean Constitution stipulates the possibility for children and grandchildren of Chileans to apply for Chilean nationality although they are born abroad, and, in contrast to previous legislation, with no requisite of residence in order to apply for nationality.<sup>15</sup> The only requisite is that the parents'/grandparents' Chilean nationality be granted because of *jus soli*, nationalization by nationalization card, or nationalization because of special merits (i.e. Chileans who obtained their nationality through *jus sanguinis* cannot bequeath their nationality to their children/grandchildren).

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9 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Constitución Política de la República de Chile*, Art. 13.

10 Ibid. Art. 10.

11 DICOEX and OIM, "Manual del regreso para chilenos en el exterior," 10, 15.

12 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Constitución Política de la República de Chile*, Art.10-17.

13 Ibid. Art. 11.

14 DICOEX and OIM, "Manual del regreso para chilenos en el exterior," 17.

15 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Constitución Política de la República de Chile*, Art. 10.

### LOSS OF CITIZENSHIP/NATIONALITY

Chilean law does not establish permanent residence abroad or dual/multiple nationality as criteria for losing Chilean nationality or Chilean citizenship (including citizen rights).<sup>16</sup>

However, for Chileans born outside the country (2<sup>nd</sup>/3<sup>rd</sup> generation), the requisite for citizenship – the capacity to exercise voting rights – is to live at least one year in Chile.<sup>17</sup> That means that for Chileans born abroad, despite being nationals, must live at least one year in Chile to acquire citizenship/citizen rights.

In keeping with the distinction between citizenship and nationality, Chilean law establishes some reasons for the loss of citizenship or nationality. The reasons for losing Chilean nationality are voluntary renunciation of nationality at a competent Chilean authority (with previous nationalization in another country); betrayal in the case of foreign aggression; cancellation of the national card (document that awards Chilean nationality to foreigners); by law revoking nationalization for special merits.<sup>18</sup> In contrast, grounds for losing Chilean citizenship are loss of Chilean nationality, penal conviction, or criminal act.<sup>19</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

There are no differences in citizen rights and duties for persons who reside outside of Chile aside from those mentioned previously and those covered in the next section. (See “Loss of citizenship” and “Voting rights of non-resident citizens.”).

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

The Chilean Constitution does not mention residence as a criterion for franchise and does not prevent Chilean emigrants from voting.<sup>20</sup> At the same time, until the constitutional reform of 2014,<sup>21</sup> Chileans had to travel back home in order to vote in the circumscription of his or her last residence

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16 Ibid. Art. 11, 16, and 17.

17 Ibid. Art. 13.

18 Ibid. Art. 11.

19 Ibid. Art. 17.

20 Ibid. Art. 16.

21 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Ley 20748. Reforma Constitucional que regula el ejercicio del sufragio de los ciudadanos que se encuentran fuera del país.*

or birthplace,<sup>22</sup> as the Constitution did not offer any provisions for external voting. The 2014 Constitutional reform, provides the possibility for external voting, but includes several restrictions: First, external voting rights will only apply for Chileans who were born in Chile or for their children/grandchildren born abroad who have resided in Chile for at least one year; second, external voting will be limited to presidential elections and national referenda; third, this means that not only will Chilean emigrants still be excluded from legislative elections, but there will also be no representative who acts for emigrants' needs and interests. Chilean emigrants are only able to vote for the legislature if they travel back home to Chile.<sup>23</sup>

Since the constitutional reform of 2009, voting is voluntary.<sup>24</sup>

Voting rights may be suspended in case of interdiction, in case of dementia or conviction of a criminal act or offense.<sup>25</sup>

As Chile is a unitary state,<sup>26</sup> there are no elections for regional executives, legislatures or referenda.

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Chileans born abroad and naturalized Chileans are required to live at least one year in Chile in order to obtain citizen rights and, therefore, electoral rights.<sup>27</sup>

Chilean law doesn't mention the requisite of residence in order to be able to run for President. In addition to being a national born in Chile or children of Chileans in first or second generation, a requisite for being elected to the presidency is to be a citizen with the right to vote.<sup>28</sup> This means that all Chilean non-residents who were born in Chile and all Chilean non-residents born abroad who have lived in Chile for at least one year can be elected President.

The National Congress of Chile is bicameral and is composed of the lower house, known as the Chamber of Deputies, and the upper house, the Senate. In addition to possessing the right to vote, the Constitution establishes that one must have maintained residence in the region that forms part of the corresponding electoral district for at least two years before election in order

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22 Ministerio del Interior, *Ley 18556. Ley Orgánica Constitucional sobre sistema de inscripciones electorales y servicio electoral*, Art. 10.

23 Ministerio Secretaría General de la Presidencia, *Ley 20568. Regula la inscripción automática, modifica el servicio electoral y moderniza el sistema de votaciones*, Art. 10.

24 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Constitución Política de la República de Chile*, Art. 15.

25 Ibid. Art. 16.

26 Ibid. Art. 3.

27 Ibid. Art. 13.

28 Ibid. Art. 25.



to be allowed to run for deputy.<sup>29</sup> No such extra requirement exists to run for the Senate; one must only be enfranchised.<sup>30</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Until the implementation of the constitutional voting reform, Chilean non-residents have to travel to Chile in order to vote (in-country voting; there is no external voting implementation until the organic law now in the legislative process is passed). Until now, non-residents who came back to Chile to vote had to vote in the circumscription of their place of birth or their last place of residence in Chile.<sup>31</sup> Those born abroad or those that have never resided in Chile could not vote. As soon as the organic law required by the constitutional voting reform of 2014 has been implemented, Chilean emigrants will be able to vote outside the country.<sup>32</sup> This law will regulate the inscription, the electoral registry, and the way that external elections will be conducted (i.e. which external voting methods will be available).

### REGISTRATION FOR FRANCHISE

Since 2012, electoral registration has been automatic. All persons who meet with the requisites for voting (Chileans over 18 years of age, and who have not been convicted of a serious offence;<sup>33</sup> or foreigners having lived in Chile for at least 5 years and not having been convicted of a serious offence<sup>34</sup>) will be inscribed automatically when reaching legal age.

In order to vote, citizens are required to present a valid passport or ID card.<sup>35</sup>

First generation non-resident Chileans were never eliminated from the electoral register and are treated as residents and thusly the registration method is currently the same as for residents (automatic). The organic law based on the Constitutional reform will indicate how registration for non-residents will work in future.<sup>36</sup>

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<sup>29</sup> Ibid. Art. 48.

<sup>30</sup> Ibid. Art. 50.

<sup>31</sup> Ministerio del Interior, *Ley 18556. Ley Orgánica Constitucional sobre sistema de inscripciones electorales y servicio electoral*, Art. 10.

<sup>32</sup> Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Ley 20748. Reforma Constitucional que regula el ejercicio del sufragio de los ciudadanos que se encuentran fuera del país*.

<sup>33</sup> Ministerio del Interior, *Ley 18556. Ley Orgánica Constitucional sobre sistema de inscripciones electorales y servicio electoral*, Art. 5.

<sup>34</sup> Ibid. Art. 6.

<sup>35</sup> Ministerio del Interior, *Ley 18700. Ley Orgánica Constitucional sobre votaciones populares y escrutinios*, Art. 62.

<sup>36</sup> Presidente de la República de Chile and Ministerio Secretario General de la Presi-

After having reached legal age and resided in Chile for at least one year, Chileans who gained Chilean nationality through *jus sanguinis* in first or second generation or special merits will be inscribed in the electoral registry automatically, providing the Electoral Service has access to the information that proves the compliance with the required conditions.<sup>37</sup>

### MODE OF REPRESENTATION

Chileans living abroad have requested representation in the National Congress;<sup>38</sup> however, there is currently no representation of expatriate Chileans in the legislative organs of the state.<sup>39</sup>

### EXTERNAL VOTING IMPLEMENTATION

External voting is granted by the 2014 electoral reform, but in order to be implemented, the corresponding organic law must be enacted. Experts assume and politicians (the President) assure that for the next Presidential elections in 2017, the Chilean diaspora will be able to vote.<sup>40</sup>

Organizations of civil society have demanded further electoral reforms that go beyond the current one. They demand external legislative voting and electoral rights for Chilean non-residents born abroad (without the requisite of one year residence in Chile).<sup>41</sup>

Current president Michelle Bachelet has stressed the importance of external voting and has pointed out that she presented a law initiative during her first mandate that was blocked by her successor, Sebastián Piñera.<sup>42</sup> Pressure from civil society inside and outside the country contributed crucially to the constitutional reform that establishes external vote.<sup>43</sup> One 2004 poll

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dencia, *Ley 20748. Reforma Constitucional que regula el ejercicio del sufragio de los ciudadanos que se encuentran fuera del país.*

37 Ministerio del interior, *Ley 18556. Ley orgánica constitucional sobre sistema de inscripciones electorales y servicio electoral*, Art. 6.

38 Red Internacional de Chilenos por los Derechos Políticos y Cívicos et al., “Chilenos en el exterior se preparan para votar por primera vez y piden representación en Parlamento. Declaración final del IV encuentro de chilenos/as en Europa. Hacia la construcción de políticas públicas”; Comité internacional Chile somos todos, “Principales Demandas.”

39 Ministerio del Interior, *Ley 18700. Ley Orgánica Constitucional sobre votaciones populares y escrutinios*, Art. 179-180.

40 Biblioteca del Congreso Nacional de Chile, “Voto de chilenos en el extranjero.”

41 Comité Internacional Chile somos todos, “Principales demandas.”

42 Presidenta de la República, *Mensaje de S.E. la Presidenta de la República con el que se inicia un proyecto de ley que regula la inscripción automática, el sufragio voluntario y el voto de los chilenos en el extranjero.*

43 Red Internacional de Chilenos por los Derechos Políticos y Cívicos et al., “Chilenos en el exterior se preparan para votar por primera vez y piden representación en

showed that 73% of Chilean emigrants would participate in elections, if they had the possibility.<sup>44</sup>

Some experts have observed that since the return of democracy, public emigrant policies have been focused on the promotion of commerce, as also on facilitating foreign investment in Chile, rather than on political areas<sup>45</sup>, while others have said that the government was engaged with the enactment of 50 other important constitutional reforms that had higher political priority (divorce law, nationality law, etc.), and was not able to address external voting earlier.<sup>46</sup>

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## REGULATION OF POLITICAL COMPETITION

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The regulation of political competition abroad is another area that is pending further regulation in Chile.

### PARTY OFFICES IN HOST COUNTRIES

Neither the Constitution nor the Electoral Law<sup>47</sup> or the Party Law<sup>48</sup> either permit or prohibit external party offices. Furthermore, the Ministry of Foreign Affairs confirmed that they do not know whether external party offices exist.<sup>49</sup>

The only party that maintains permanent offices abroad is the Chilean Socialist Party (*Partido Socialista de Chile*). They trace their origins to times of political exile (during the Pinochet dictatorship).<sup>50</sup> Their function has had less to do with securing funding for campaigns or political support and more to do with keeping Chilean citizens living abroad connected to their country and

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parlamento. Declaración final del IV encuentro de chilenos/as en Europa. Hacia la construcción de políticas públicas.”

44 Dirección para la Comunidad de Chilenos en el Exterior, “Memoria 2006-2010,” 12.

45 Red Internacional de Chilenos por los Derechos Políticos y Cívicos et al., “Chilenos en el exterior se preparan para votar por primera vez y piden representación en parlamento. Declaración final del IV encuentro de chilenos/as en Europa. Hacia la construcción de políticas públicas.”

46 Cataldo Moya, Felipe Andrés and Muñoz Saavedra, Paula Alejandra, “Nacionalidad y ciudadanía; problemática del derecho a sufragio de los chilenos en el extranjero,” 135.

47 Ministerio del Interior, *Ley 18700. Ley Orgánica Constitucional sobre votaciones populares y escrutinios*.

48 Ministerio del Interior, *Ley 18603. Ley Orgánica Constitucional de los partidos políticos*.

49 Ministerio de Relaciones Exteriores, Dirección de Atención Ciudadana y Transparencia, “Respuesta a la solicitud de acceso N°AC001W-0000563,” -0000563.

50 Biblioteca Clodomiro Almeyda and Partido Socialista de Chile, “PS en el Exterior - Partido Socialista de Chile.”

to their political conviction. It remains to be seen how their role will change once the external voting has been implemented. Currently, the PS holds party offices in Austria, Belgium, Brazil, Ecuador, France, Mexico, Spain, Sweden, the USA, and Venezuela.<sup>51</sup>

The Radical Social Democrat Party (*Partido Radical Socialdemócrata*) has a Facebook-page for the External Region, but doesn't maintain permanent offices.<sup>52</sup>

Outside of election periods, Chilean political parties do not receive public funding and therefore rely exclusively on membership fees.<sup>53</sup> As a consequence, neither do external party offices. During electoral campaigns, political parties receive public funding, private donations, and bank loans.

It remains to be seen if the organic law regulating external voting will address the topic of public funding of external party offices during campaigns.

### POLITICAL CAMPAIGNS

Chile has no specific regulation for political campaigns abroad. As external voting has not yet been implemented, Chilean emigrants have not been an important target group. Furthermore, Chilean law prohibits both party funding from abroad<sup>54</sup> and political campaign funding from abroad.<sup>55</sup>

### MEMBERSHIP

In order to belong to a political party, Chileans must be citizens and possess the right to vote.<sup>56</sup> This means that Chileans born outside Chile that have not been living in Chile are not allowed to join a Chilean political party.

The statutes of the six biggest parties reveal that only the Socialist Party makes special reference to adherents living abroad. The other parties don't mention Chilean emigrants, but neither do they establish residence in Chile as a condition for being an active or passive party member.<sup>57</sup>

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51 Ibid.

52 Partido Radical Social Demócrata, "Partido Radical Socialdemócrata de Chile. Región exterior."

53 Ministerio del Interior, *Ley 18603. Ley Orgánica Constitucional de los partidos políticos*, Art. 33.

54 Ibid. Art. 33.

55 Ministerio del Interior, *Ley 18700. Ley Orgánica Constitucional sobre votaciones populares y escrutinios*, Art. 30.

56 Ministerio del Interior, *Ley 18603. Ley Orgánica Constitucional de los partidos políticos*, Art. 18.

57 Partido Socialista de Chile, "Estatuto del Partido Socialista de Chile. Texto Refundido."; Partido Radical Social Demócrata, "Estatutos del Partido Radical Social Demócrata" Art.2; Art.10; Partido Demócrata Cristiano, "Estatutos. Texto Refundido, Coordinado y Sistematizado del Estatuto Del PDC," Art.8; Art.12; Art.103; Partido por la Democracia, "Estatutos del Partido por la Democracia," Art.3; Art.4;

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT THE NATIONAL LEVEL

There is no consultative body for emigrant representation acting at the national level. Chile has, however, consultative councils (*consejos consultivos*) that are decentralized civil society associations whose aim is to serve as a bridge between the state and emigrants.<sup>58</sup> The Directorate of the Chilean Community Abroad (*Dirección para la Comunidad de Chilenos en el Exterior, Dicoex*), the main body for emigrant policy administration in Chile, has supported civil society organization and leadership trainings (in the form of workshops) to strengthen the social competences and networking capabilities of representatives of Chilean emigrants in those councils, which are considered key to having competent interlocutors.<sup>59</sup>

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### ADMINISTRATION

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As stated above, *Dicoex* is the main body in charge of designing policies to extend and promote links with the Chilean emigrant community and to channel their interests and contributions to the country.<sup>60</sup> An area in which the Chilean administration of emigrant policies has made great advances, and which has few precedents in the region, is the conducting of a census of emigrants. The first one was undertaken in 2004, as an initiative of the *Dicoex* that brought together consulates, the *Instituto Nacional de Estadísticas*, and the International Organization for Migration. The effort was called *Primer Registro de Chilenos en el Exterior*, covered more than a hundred countries, and included questions about the reasons for emigration, the living situation of the emigrants, the relation to Chile, and the interest in electoral participation. The main goal of this effort was to gather information about how many Chileans lived where and about their living conditions, in order to develop appropriate public policies. Also, the consular information targeting Chilean emigrants has improved considerably. Not only via the program *Gobierno en Terreno*, but also by the publication of informative material on consular websites.<sup>61</sup>

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Unión Demócrata Independiente, “Afiliación a la Unión Demócrata Independiente”; Renovación Nacional, “Estatuto de Renovación Nacional,” Art. 1; Art. 5.

58 Ministerio Secretaría General de Gobierno, *Ley 20500. Ley Sobre asociaciones y participación ciudadana en la gestión pública*, Art. 74.

59 “Memoria 2006-2010. Dirección para la Comunidad de Chilenos en el Exterior – DICOEX” (Santiago de Chile: Ministerio de Relaciones Exteriores), 25.

60 Ibid. 18-20.

61 Corporación de Asistencia Judicial de la Región Metropolitana and Dirección para

## CONSULATES

As of 2014, the Chilean consular network consisted of 108 consulates (41 consulates general, 9 special consulates, 58 consular sections), 57 authorized honorary consulates, and 145 unauthorized honorary consulates.<sup>62</sup>

Since 2010, all Chilean consulates have offered the possibility of applying for consular services via Internet. Chileans only have to present themselves at the consulates to retrieve the documents they applied for.<sup>63</sup>

A program has been put in place to offer public services, including financial consultancy, to Chilean emigrants. Until 2010, the program was called *Gobierno en terreno – INFOBUS* and was only offered in Argentina, having grown out of an initiative that initially worked for residents in Chile. *Dicoex* adapted it to function abroad with the help of the consular network, mostly to reach remote areas of Argentina (for instance, Patagonia) where there are many Chileans and who may need to know about the services and programs offered by their government; starting with those designed for Chileans abroad by the Inter-ministerial Committee (see below under Home Country Administration).<sup>64</sup> Since 2010, with the change of government, it has been called *Chile sigue contigo* and has been expanded to cover different countries.<sup>65</sup> In 2012, the service was expanded to include Skype consultations.<sup>66</sup>

One of the principal consular functions is legal representation, i.e., to represent Chileans abroad or secure representation in court or other authorities from the receiving country.<sup>67</sup> Chileans living abroad have access to professional and free consultancy via telephone/internet.<sup>68</sup> However, Chilean consulates also participate in offering financial consultancy, via the *Gobierno en terreno* program described abroad in collaboration with the *Banco*

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la Comunidad de Chilenos en el Exterior, “Justicia te ayuda. chilenos en el exterior. Acceso a la justicia desde cualquier lugar del mundo.” See also: *Manual de regreso*.

62 Ministerio de Relaciones Exteriores, Dirección de Atención Ciudadana, “Respuesta a la solicitud de acceso N°AC001W-0000562.”

63 Dirección para la Comunidad de Chilenos en el Exterior, “Memoria 2006-2010,” 16; DICOEX and OIM, “Manual del regreso para chilenos en el exterior,” 18.

64 Dirección para la Comunidad de Chilenos en el Exterior, “Servicios en terreno”; Dirección para la Comunidad de Chilenos en el Exterior, “Memoria 2006-2010,” 23.

65 Dirección para la Comunidad de Chilenos en el Exterior, “Servicios en terreno”; Ministerio de Relaciones Exteriores, Dirección de Atención Ciudadana y Transparencia, “Respuesta a la solicitud de acceso N°AC001W-0000563.”

66 Schmidt Ariztía, Fernando and Subsecretaria de Relaciones Exteriores, “Chile Sigue contigo”; Dirección para la Comunidad de Chilenos en el Exterior, “Servicios en terreno.”

67 DICOEX and OIM, “Manual del regreso para chilenos en el exterior,” 20.

68 Corporación de Asistencia Judicial de la Región Metropolitana and Dirección para la Comunidad de Chilenos en el Exterior, “Justicia te ayuda. Chilenos en el exterior. Acceso a la Justicia desde cualquier lugar del Mundo,” 3.

*Estado*. Psychological consultancy is offered on a case-by-case basis and some programs have been developed through the *Servicio social consular* for returnees that might be traumatized after having experienced abusive situations abroad.<sup>69</sup> This is mostly tailored to offer assistance to victims of domestic violence or human trafficking or the repatriation of a family member who is in a vulnerable situation.<sup>70</sup> The service, in collaboration with the corresponding consulates, also offers help to relatives of citizens detained abroad by offering the possibility to send money, documents, and correspondence to the detainee and to know about his/her medical and legal situation.<sup>71</sup>

### HOME COUNTRY ADMINISTRATION

Since its creation in June 2000, *Dicoex* has had the mandate to develop and maintain the relationship between Chile and the Chilean diaspora, but occupied different positions within the Ministry of Foreign Affairs' organization structure. Initially, it was dependent on and immediately subordinate to the Sub-secretary of Foreign Affairs.<sup>72</sup> It was later subordinated to the Directorate General of Immigration and Consular Affairs of the same Ministry of Foreign Affairs. It is subdivided in the following departments: *Departamento de Vinculación y Desarrollo*; *Departamento de Comunicaciones y Fomento de la Identidad*; *Unidad de Leyes de Reparación*; *Unidad de Gestión*. In cooperation with Chilean consulates and other state institutions, *Dicoex* aims to offer improved public services to the Chilean diaspora. By contacting Chilean emigrant associations and conducting censuses, *Dicoex* aspires to stay informed of the needs and desires of the Chilean diaspora in order to develop new policies. All services and new policies offered to Chilean emigrants since 2000 have evolved in cooperation with *Dicoex*.<sup>73</sup>

Chile has yet another body for its home administration of emigrant policies: The Inter-ministerial Committee for the Chilean Community Abroad (*Comité Interministerial para la Comunidad Chilena en el Exterior*). It has been in operation since 2010, and meets at least twice a year. However, it has a coordinating role, rather than a policy-design mission. It is managed by *Dicoex* and connects the Ministries most involved with emigrant policies. The principal aim is to establish public policies for Chilean emigrants that help to reinforce their social, political, cultural and economic rights.

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69 Consultation with Juan Pino, head of the Directorate for the Communities of Chileans Abroad, Santiago de Chile, May 20, 2016.

70 DICOEX and OIM, "Manual del regreso para chilenos en el exterior," 26.

71 Ministerio de Relaciones Exteriores, "Connacionales detenidos en el exterior."

72 Fiedler and Mímica, "Informe final de evaluación. Programa comunidad de chilenos en el exterior," 15.

73 Dirección para la Comunidad de Chilenos en el Exterior, "Memoria 2006-2010."



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## ECONOMIC POLICIES

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### REMITTANCES

The central bank of Chile states that remittances are of minor importance for the Chilean economy, as the financial flows are low (especially comparing to other Chilean economic indices).<sup>74</sup> As a consequence, neither the Chilean banks nor the Chilean government have entered into the remittances market or created incentives to attract remittances.

Chile's state bank, the *Banco Estado*, offers on its homepage (which has a section exclusively for emigrants) the possibility of maintaining a bank account or buying property from abroad.<sup>75</sup>

### INVESTMENT

Chile has not implemented any policy to stimulate emigrant investment. While not an incentive for investment, the *Banco Estado* does offer loans to Chilean emigrants who want to buy a personal residence in Chile.<sup>76</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Chile has a number of programs that aim to reinforce the professional and academic exchange within Chileans living abroad and between Chilean residents and non-residents; importantly, these programs rely for their functioning on a network structure initially proposed by a private foundation (*Imagen Chile*). This means that, despite providing much of the network's funding, the Chilean state has little power to define their direction and activities. It is the members of the network themselves who set the activities, goals and membership criteria. Since 2002, *Dicoex* has limited itself to organizing the *Encuentros en Chile con connacionales destacados residentes en el exterior* conventions to honor the contributions made by distinguished Chilean emigrants.<sup>77</sup>

*ChileGlobal* is an international network of businessmen, professionals and postdoctoral students from Chile (or friends of Chile) who live abroad and are interested in getting connected in order to contribute to and benefit from the development of Chile. Its objective is to become to an instrument that promotes the exchange of knowledge and contributes to the construction of the image of Chile.<sup>78</sup> Since 2006, *ChileGlobal* (with the support of scientific

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74 Banco Central de Chile, "Estudios económicos estadísticos. Remesas personales desde y hacia Chile," 11.

75 BancoEstado, "Bancoestado chilenos en el exterior."

76 Dirección para la Comunidad de Chilenos en el Exterior, "Compra de vivienda en Chile."

77 Dirección para la Comunidad de Chilenos en el Exterior, "Memoria 2006-2010," 32f.

78 Dirección de Energía, Ciencia y Tecnología e Innovación, "Redes de investigadores



institutions and companies) organizes an annual conference aiming to reinforce ties between researchers affiliated with Chile from all over the world.<sup>79</sup>

Several scientific networks have been formed to create dialogue and share knowledge between Chilean postgraduate students living in different countries. These networks all receive public support (financial, networking, technological, etc.) from the Ministry of Foreign Affairs, *ChileGlobal* and Chilean embassies and consulates. In addition to their annual meetings, they hold seminars and have publications.<sup>80</sup>

The Directorate of Energy, Science, and Technology (*Dirección de energía, ciencia y tecnología e innovación, DECYTI*) aims to develop and oversee the international aspects of the politics of energy, innovation, investigation and scientific and technological development. *DECYTI* assists the scientific networks of Chileans in Canada, France, Germany, Spain, the USA, and elsewhere.<sup>81</sup>

### RETURN POLICIES

Chile has many regulations concerning the recognition of professional and academic qualifications obtained abroad. If the professional/academic title was obtained in a country with which Chile has signed a treaty, it must be legalized by the authorities where the qualification was acquired and revalidated by the Chilean consulate in that country.<sup>82</sup> Once in Chile, the documents must be submitted to the Ministry of Foreign Affairs.<sup>83</sup> The process then takes approximately 10 working days.<sup>84</sup>

A special agreement exists between the Chilean and Argentinean Ministries of Education to expedite the recognition process.<sup>85</sup> If the Argentinean title is not recognized by the Argentine higher education authority, the qualification is treated as though obtained in any other country.

Titles acquired in other countries must be legalized and revalidated by the Chilean consulate in that country. Then, after having been legalized at the Legalization Department of the Chilean Ministry of Foreign Affairs, the titles have to be presented to the University of Chile, who decides which steps have

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y científicos chilenos en el exterior,” 11; ChileGlobal. Red de Talentos, “ChileGlobal.” 79 ChileGlobal, “Encuentros ChileGlobal Santiago 2014.”

80 Dirección de Energía, Ciencia y Tecnología e Innovación, “Redes de investigadores y científicos chilenos en el exterior,” 2; 8f.

81 Ibid. 11.

82 Universidad de Chile, “Reconocimiento de Títulos en virtud de convenios internacionales.”

83 Universidad de Chile, “Revalidación de títulos extranjeros. reconocimiento en el Ministerio de Relaciones Exteriores.”

84 Ibid.

85 Ministerio de Educación, “Acuerdo de reconocimiento de títulos con Argentina.”

to be taken in order to recognize the title.<sup>86</sup> The required processing time depends largely on the faculty to which the documents are sent.<sup>87</sup>

Titles of Chilean emigrants who abandoned Chile during the dictatorship can be recognized in Chile, as long as they are recognized by the corresponding states. A special commission, composed of the Ministry of Education, the director of the University of Chile and other institutions, will review the documents and recognize the title, so that the person is able to work in Chile under the conditions granted by the title.<sup>88</sup> The Special Commission must take a decision within three months.<sup>89</sup>

Regarding return in general, the Chilean state does not conduct any communication campaigns in order to convince emigrants to return to Chile. The Manual for Return (*Manual del Regreso*) is a government document directed at facilitating the transition back to Chile for emigrants who have already decided to return.<sup>90</sup>

Chilean emigrants who return definitively to Chile, may benefit from an exemption from import duties on certain goods.<sup>91</sup> Besides, *Beneficio Social a Chilenos en el Exterior* includes support of elderly and ill persons, children, or Chileans who return to Chile in precarious conditions.<sup>92</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Inscription in the military registry is automatic, as the civil registry reports every year all the persons that have reached legal age to the General Directorate of National Mobilization.<sup>93</sup> This applies to Chileans living abroad as well. In order to remain exempt from the military service, male Chileans

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86 Universidad de Chile, “Revalidación de títulos extranjeros. Revalidación en la Universidad de Chile.”

87 Universidad de Chile, “Proceso de revalidación y reconocimiento. documentos necesarios para la revalidación y reconocimiento de títulos profesionales y grados académicos obtenidos en el extranjero.”

88 Ministerio de Educación Pública, *Ley 19074. Autoriza ejercicio profesional a personas que señala que obtuvieron títulos o grados en el extranjero.*

89 Ibid. Art. 6.

90 DICOEX and OIM, “Manual del regreso para chilenos en el exterior.” 2013.

91 Aduana Chile, “Tratamientos arancelarios especiales. Notas Legales Especiales” Partida 0009; Partida 0033; DICOEX and OIM, “Manual del regreso para chilenos en el exterior,” 22.

92 Dirección para la Comunidad de Chilenos en el Exterior, “Beneficio social a chilenos en el exterior.”

93 Ministerio de Defensa Nacional, *Decreto Ley 2306. Dicta normas sobre reclutamiento y movilización de las Fuerzas Armadas.*

must declare their residence abroad at the nearest consulate.<sup>94</sup> If they return to Chile (between the ages of 18 and 45), they have to present themselves at the recruitment office nearest their residence and will be registered in the reserves for two years.<sup>95</sup>

If they fail to declare their residence abroad, are selected for service and fail to serve they incur a penalty.<sup>96</sup>

Victims of Human Rights violations committed during the dictatorship and their relatives (until second degree) remain exempt from Military Service.<sup>97</sup>

There is no obligation for social service, as it doesn't exist in Chile.

As long as Chilean non-residents do not obtain revenue from Chilean sources, they don't have to pay taxes in Chile.<sup>98</sup> Moreover, Chile has signed conventions with numerous countries in order to avoid double taxation.<sup>99</sup>

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### CULTURAL POLICIES

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Chile does not manage or fund cultural centers abroad. However, cultural centers abroad may receive once-only payments via the *Fondo Concursables de Apoyo Complementario a Proyectos de Asociaciones de Chilenos en el Exterior*.<sup>100</sup> Chile also does not have cultural promotion offices within consulates. Programs of the Directorate of Cultural Affairs (*Dirección de Asuntos Culturales, Dirac*), part of the Ministry of Foreign Affairs, which are carried out in cooperation with the Chilean embassies and consulates, do not specifically target the Chilean emigrant population, but rather the whole international society.<sup>101</sup> However, since 2004, *Dicoex* offers competitively-awarded funding for projects undertaken by Chilean associations abroad to strengthen the identity and feeling of belonging of the Chilean diaspora by funding projects in the fields including culture, sports, science, technology and innovation.<sup>102</sup> Moreover,

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94 Ibid. Art. 24.

95 Embajada de Chile en Alemania, "Obligaciones militares."

96 Ministerio de Defensa Nacional, *Decreto Ley 2306. Dicta normas sobre reclutamiento y movilización de las Fuerzas Armadas*, Art. 73.

97 Ministerio del Interior, Subsecretaría del Interior, *Ley 19992. Establece pensión de reparación y otorga otros beneficios a favor de las personas que indica*, Art. 17.

98 Ministerio de Hacienda, *Decreto Ley 824. Aprueba texto que indica de la Ley sobre Impuesto a la Renta*, Art. 10.

99 Servicio de Impuestos Internos, "Convenios tributarios internacionales."

100 Dirección para la Comunidad de Chilenos en el Exterior, "Fondo concursable."

101 Ministerio de Relaciones Exteriores de la República de Chile, "Dirección de Asuntos Culturales - Dirac."

102 Dirección para la Comunidad de Chilenos en el Exterior, "Fondo concursable"; Dirección para la Comunidad de Chilenos en el Exterior, "Memoria 2006-2010," 75.

there are government programs designed to promote Chilean culture around the world and connect with the Chilean diaspora. Since 2001, *Dicoex*, in collaboration with the National Tourism Service, has organized the *Revisitando Chile: Identidad e Historia* program, targeting Chilean senior citizens (older than 60) living in neighboring countries. The program aims to enforce a cultural policy that strengthens the national identity.<sup>103</sup>

Since 2002, *Dicoex* publishes a magazine, *Revista Chile somos todos*, for Chileans living abroad. Its aim is to inform about the activities carried out by the Chilean communities abroad.<sup>104</sup> Every 6 months, the magazine is complemented by a supplement called *Run Rún*, a space created in order to publish stories, poetry, narration, and essays written by Chilean emigrants.<sup>105</sup> There are also annual literary and audiovisual competitions for Chileans abroad, aimed at strengthening their identity and feeling of belonging to Chile, and sharing their vision of Chile from a distance.

Since 2004, the National Library of Chile aims to recover the intellectual production during the years 1973-1990 of the Chilean exiles. The cultural artifacts are catalogued in the *Biblioteca del Reencuentro*.<sup>106</sup>

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## EXIT AND TRANSIT POLICIES

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The Chilean Constitution establishes the right for every person to enter and exit the country freely (as long as this does not imply any violation of other laws).<sup>107</sup>

The Chilean state does not operate any information campaign aimed especially at citizens planning to emigrate in order to inform those citizens about their rights and duties once they live abroad. There are also no information campaigns aimed at discouraging emigration or promoting safe transit to other countries.

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103 Grafelbergnoticias, “Chilenos adultos mayores que viven en el extranjero podrán vacacionar en Chile”; Dirección para la Comunidad de Chilenos en el Exterior, “Adulto Mayor.”

104 Dirección para la Comunidad de Chilenos en el Exterior, “Memoria 2006-2010,” 18, 39.

105 Ibid. 39.

106 Biblioteca Nacional de Chile, “El diálogo con nuestra historia: Biblioteca del Reencuentro.”

107 Presidente de la República de Chile and Ministerio Secretario General de la Presidencia, *Constitución Política de La República de Chile*, Art. 19, No.7, Paragraph a.

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## SOCIAL POLICIES

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Providing they have contributed to the social contribution scheme, the *Instituto de Previsión Social* (IPS), or its predecessors, Chileans living abroad are able to maintain or apply for a wide array of benefits. These include coverage for disabilities, dependent family members, old age security, reimbursement of funeral costs, retirement, among others.<sup>108</sup>

The Chilean state doesn't provide the possibility for Chileans living abroad to maintain Chilean healthcare benefits. Chile has, however, signed the Multilateral Ibero-American Social Security Convention (*Convenio Multilateral Iberoamericano de Seguridad Social*), which establishes benefit regimes among the signatory states.<sup>109</sup>

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## SYMBOLIC POLICIES

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The website, *Chile Somos Todos*, was launched in 2006 with the aim of bringing closer the thousands of Chileans living abroad and providing a space for dialogue, knowledge, and information about activities. Since 2010, *Dicoex* has also maintained a Facebook account, where information of interest for the Chilean communities is published.<sup>110</sup>

The *Chile Somos Todos* international committee, with the support of the Ministry of Foreign Relations, the Presidency of the Senate, and the Department of Social Organizations of the Ministry of the General Secretary, organizes the *Encuentro de chilenos y chilenas residentes en el exterior* conference.<sup>111</sup>

Emigrants are not specifically targeted on the national day (September 18), however, during her first mandate and again in 2014, Chilean President Michelle Bachelet as well as her predecessor Sebastián Piñera sent some official greetings to Chilean communities living abroad.<sup>112</sup>

Chile has not created new symbolic territorial entities. Some political parties (mostly the Socialist Party) have referred to the Chilean diaspora as an

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108 Ministerio de Relaciones Exteriores, "Chilenos en el exterior. Prevision social."

109 Organización Iberoamericana de Seguridad Social, "Convenio Multilateral Iberoamericano de Seguridad Social."

110 Dirección para la Comunidad de Chilenos en el Exterior, "Chile somos todos. DICOEX. Dirección para Chilenos en el Exterior."

111 Comité Internacional Chile somos todos, "Encuentro de chilenos y chilenas residentes en el exterior".

112 Presidenta de la República, *Saludo Presidencial en fiestas patrias 2014*; Presidente de la República, *Saludo del Presidente Piñera y la Primera Dama en Fiestas Patrias 2013*.

external region<sup>113</sup> or the XVI Region,<sup>114</sup> However this has never been used as an official expression by state institutions.

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113 Partido Radical Social Demócrata, “Partido Radical Socialdemócrata de Chile. Región Exterior.”

114 Partido Socialista de Chile, “Estatuto del Partido Socialista de Chile. Texto Refundido,” Art. 16.

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## COLOMBIA

The International Organization for Migration (IMO) estimates that between 3.5 and 4.7 million Colombians live abroad (around 10 percent of the population).<sup>1</sup> According to these figures, Colombia is the South American country with the most non-resident nationals. The latest official data provided in 2005 by the Colombian statistical office shows that the majority of Colombian emigrants are living in United States (34.6%), Spain (23.1%), and Venezuela (20%).<sup>2</sup> Scholars usually identify three waves of Colombian emigration. The first, beginning in the 1960s, was composed of highly-skilled Colombians seeking better job opportunities in the United States and Venezuela. In the 1980s, another wave of emigration was registered towards Venezuela, fundamentally encouraged by the improvement of the Venezuelan economy. The last wave, registered in the 1990s and early 2000s, was composed by Colombians moving mostly to Spain, due to the tighter immigration policies applied by Venezuela and the US.<sup>3</sup>

The causes of emigration are multiple and respond to internal as well as external dynamics. Among others, the instability of the Colombian economy throughout the years; the contested political situation and polarized political system; high degrees of political corruption and institutional inefficiency; and the generalization of violence provoked by the armed conflict with guerrilla movements such as the FARC.<sup>4</sup>

In the last decade, Colombia has assembled several legal texts (from policy documents to laws) that define the core of its emigrant policy. Part of the strategy developed by the Colombian government was first drafted in its so-called Integral Migration Policy (*Documento CONPES 3603: Política Integral Migratoria*),<sup>5</sup> a document approved in 2009 created by the National Council for Economic and Social Policy (*Consejo Nacional de Política Económica y Social, CONPES*) that delineates the strategy to be carried out by the government in terms of migration (including the policies towards emigrants as well as towards migrants in Colombia).<sup>6</sup> After the *CONPES* document, some legislation was approved, in part, to give legal basis to some of the policies that were drafted in the document. In 2011, for instance, the “National Migration

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1 Ramírez, Zuluaga, and Perilla, “Perfil migratorio de Colombia 2012.”

2 Ibid.

3 Servicio de Noticias de las Naciones Unidas, “OIM estima en 3,4 millones el número de emigrantes colombianos.”

4 Maisonave, Ortí, and others, “Transnacionalismo político,” 1151.

5 The strategy was developed under the *Plan Nacional de Desarrollo 2006-2010 “Estado Comunitario: Desarrollo para Todos.”*

6 Consejo Nacional de Política Económica y Social, “Conpes 3603: Política Integral Migratoria.”

The right to vote in national legislative elections came into force with the enactment of the current Constitution in 1991. The Congress of Colombia is composed of two houses, the Senate and the House of Representatives. The former comprises 100 members elected in a single district by all Colombian citizens, resident or non-resident.<sup>7</sup> The House of Representatives is composed of members elected in territorial districts, as well as in “special” districts (*circunscripciones especiales*). The latter group includes one district for ethnic groups, one for political minorities and one for non-resident Colombians, which is elected by all non-resident citizens.<sup>8</sup> It is not possible to vote simultaneously for candidates of territorial constituencies and for candidates running for special seats such as the one reserved for non-residents.<sup>9</sup>

After a constitutional change in 1991, migrants had to wait seven years to vote in Senate elections (1997) and eleven to vote for special representatives in the House of Representatives (2002).<sup>10</sup> Although the Constitutional mandate was clear, its legislative and administrative development presented some difficulties. The first two times that non-resident Colombians voted for the special representative of the international district, the result was contested. The first time, in 2002, was because resident Colombians also voted for the candidate running for the special seat of the international district: About 75% of the votes received by the candidate were cast within Colombian territory. The second time, in 2005, was because the Constitutional Court ruled the executive decree regulating elections abroad unconstitutional.<sup>11</sup>

In 2003, in order to increase the non-resident turnout in the presidential and legislative elections, the cost of all consular fees, including passport issuance, were reduced by 10% and the exit tax for citizens visiting the country for a maximum of 45 days was reduced by 30%.<sup>12</sup>

The Constitution of 1991 does not allow non-resident citizens to vote in regional and local elections (including for regional governors, local mayors, and local councils) nor in regional referendums.<sup>13</sup>

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7 Asamblea Nacional Constituyente, *Constitución Política de Colombia*, Art. 171.

8 Ibid. Art. 176.

9 El Congreso de Colombia, *Ley 649 de 2001 que reglamenta el artículo 176 de la Constitución Política de Colombia*, Art. 11.

10 González, “El voto de los colombianos en el exterior: elecciones entre disfuncionamientos y rebusque,” 66.

11 Ibid. 71.

12 El Congreso de Colombia, *Ley 815 de 2003 por la cual se aclara la Ley 403 de 1997 y se establecen nuevos estímulos al sufragante*, Art. 3.

13 Asamblea Nacional Constituyente, *Constitución Política de Colombia*, Art. 316.

Colombians abroad also have participated in national referendums. In 1990, they were allowed to vote in the plebiscite to ratify the Constitution and in a 1997 consultation regarding the peace process.<sup>14</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

All Colombians by birth can become President of the Republic, the only requisites are being 30 years old or more and having the status of citizen (*ciudadano en ejercicio*).<sup>15</sup> No distinction between residents and non-residents is made. Likewise, the Constitution of 1991 does not include any residence criteria to be elected as member of the Senate.<sup>16</sup> However, the Constitution does incorporate residency criteria in the case of the members of the House of Representatives.<sup>17</sup>

Non-residents must demonstrate a minimum stay abroad of five years and have the support of a national party or political movement if they want to run for the seats reserved for Colombians abroad.<sup>18</sup> While it was established in 2001 that non-residents would have one reserved seat in the House of Representatives,<sup>19</sup> a 2013 modification added one reserved seat for non-residents and eliminated the one reserved for political minorities.<sup>20</sup> In the last elections (March 2014), the five special seats in the House of Representatives were distributed as follows: 2 for the international district, 2 for the afro-descendent community, and 1 for the indigenous community.<sup>21</sup> Recently, however, the Congress of Colombia ruled to eliminate one of the seats of the international district.<sup>22</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Non-resident Colombians can only vote in national elections (presidential or legislative) in embassies and consulates or in other locations authorized by the National Civil Registry and the Ministry of Foreign Affairs.<sup>23</sup>

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14 Calderón Chelius, *Votar en la distancia. La extensión de los derechos políticos a migrantes, experiencias comparadas*; Escobar, "Immigrant Enfranchisement in Latin America."

15 Asamblea Nacional Constituyente, *Constitución Política de Colombia*, Art. 191.

16 Ibid. Art. 171.

17 Ibid. Art. 176.

18 El Congreso de Colombia, *Ley 649 de 2001 que Reglamenta el artículo 176 de la Constitución Política de Colombia*, Art. 1.

19 Ibid. Art. 5.

20 El Presidente de la República de Colombia, *Decreto 2788 de 1972 por el cual se fija el número de representantes a la cámara que se elegirán por circunscripciones territoriales y circunscripciones especiales el 9 de marzo de 2014*.

21 Ibid.

22 El Congreso de Colombia, *Acto Legislativo 2 de 2015*.

23 *Decreto 4766*, 2005 Art. 19; *Decreto 2241 de 1986, Código Electoral*, Art. 116; *Ley 1475*, 2011, Art. 51.

### REGISTRATION FOR THE FRANCHISE

Registration for voting is automatic. However, there are a couple of exceptions. Colombians living abroad must actively register their personal ID at the corresponding electoral authority (consulate or embassy) if their current address does not match that stated on the ID (for instance, if there has been a change in the country of residence), or if their ID was issued before 1988 and they have not voted thereafter. Once the ID is registered, they become part of the electoral register and, providing they do not change their residency, registration is automatic for subsequent elections.<sup>24</sup>

### MODE OF REPRESENTATION

The mode of representation differs between types of elections:

- 1) For presidential elections, the votes of non-residents are counted in the electoral polling stations and then sent to the national electoral authority to be incorporated into the totals.<sup>25</sup>
- 2) For the Senate, the votes of non-residents are counted separately and then either incorporated to the national totals or to the indigenous peoples' district. This applies only for those external voters that decided to vote for the special seats reserved for the indigenous population.
- 3) For the House of Representatives, the votes of non-residents are counted separately and then incorporated to a special district with no distinction between locations.

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### REGULATION OF POLITICAL COMPETITION

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The regulation of political competition in Colombia is distributed among different legal documents, the most important being the Constitution of 1991, the "Electoral Guarantees Law" (Law 996 of 2005), Law 1475 of 2011 and Law 130 of 1994. Despite the increasing importance of the electoral processes held abroad, there is still a lack of explicit regulation of political competition overseas.

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24 Registraduría Nacional del Estado Civil, *Resolución 7552 de 2009 por la cual se modifica la resolución número 5598 del 25 de agosto de 2009, por la cual se establece el calendario electoral para la elección de Congreso de la República y Parlamento Andino, Período Constitucional 2010-2014*; Registraduría Nacional del Estado Civil, "Preguntas Frecuentes Sobre El Registro Electoral."

25 Registraduría Nacional del Estado Civil, *Decreto 2241 de 1986 por el cual se adopta Código Electoral* Art. 116; Registraduría Nacional del Estado Civil, "Comunicado de Prensa No. 139 de 2010."

### PARTY OFFICES IN HOST COUNTRIES

Colombian law neither forbids nor explicitly regulates party offices in foreign countries. It is highly possible that the status of these offices has not been taken into account by legislators, and therefore, no specific regulation applies. External political party offices do not receive direct public funding, but it is possible for parties to fund them by allocating part of their available general budget. Again, there is not an explicit regulation regarding this issue in the Colombian legal framework.

### POLITICAL CAMPAIGNS

Political campaigns abroad are also not regulated, but presumably allowed by omission of explicit prohibition. Nonetheless, two mentions of the regulation of political campaigns conducted by Colombian parties abroad were found in the Colombian legal framework. The first regards the prohibition of funding coming from foreign sources such as other governments or foreign companies.<sup>26</sup> The second is the spending ceiling for campaigns organized to elect the reserved seat for the non-resident community in the House of Representatives.<sup>27</sup>

### MEMBERSHIP

The Constitution of 1991 grants the right to take part in political power and, explicitly, in political parties to all citizens.<sup>28</sup> From a legal point of view, therefore, no distinction can be drawn between resident and non-resident citizens in regards to their capability to belong to political parties. Some Colombian parties do not reference non-residents members directly (e.g. the Liberal Party<sup>29</sup>), but others, such as the Social Party of National Unity (*Partido Social de Unidad Nacional*), have included clauses in their statutes that refer directly to the non-resident members and their organization abroad.<sup>30</sup>

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26 El Congreso de Colombia, *Ley 1475 de 2011 por la cual se adoptan reglas de organización y funcionamiento de los partidos y movimientos políticos, de los procesos electorales y se dictan otras disposiciones*, Art. 27.

27 Consejo Nacional Electoral, *Resolución 0521 de 2009 por la cual se fija la suma máxima que puede invertir cada uno de los candidatos inscritos en las listas únicas avaladas por los partidos políticos, movimientos políticos, movimientos sociales y grupos significativos de ciudadanos, para las elecciones de Congreso de la República, Período Constitucional 2010-2014*.

28 Asamblea Nacional Constituyente, *Constitución Política de Colombia*, Art. 40.

29 Partido Liberal, “Estatuto Partido Liberal.”

30 Partido de la U, “Estatuto del Partido de la U”, Art. 6.



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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

There is no consultative body at the national level or consular level responsible for advising the government on policies that affect the emigrant community. However, the creation of the National Migration System is worth mentioning in this section. This system was conceived as a stable coordination mechanism to improve the quality of life of Colombian emigrants and covers institutions, civil society organizations, processes, and programs that relate to the Colombian emigrant community.<sup>31</sup> There is also the National Civil Society Round Table for Migrations (*Mesa Nacional de la Sociedad Civil para las Migraciones*), which was designed to gather associations of emigrant Colombians and transmit emigrant demands to the government. This body has not yet been convened and it is, at the time of writing, subject to a legislative modification that aims to transform it into a real consultative body for emigrant issues.<sup>32</sup>

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## ADMINISTRATION

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### CONSULATES

Colombia has 110 consulates distributed in 61 countries (6 in Africa, 65 in the Americas, 23 in Europe, 13 in Asia, and 3 in Oceania). Additionally, Colombia maintains 39 honorary consulates, 4 delegations, and 59 embassies.<sup>33</sup> The *Colombia nos une* unit, together with the consulates, organizes mobile consulates, which deploy consular personnel to places within the consular district. Their aim is to bring consular services closer to those who cannot travel to the main offices.<sup>34</sup> Also, some Colombian consulates open on certain Saturdays, though regular office hours are not offered.<sup>35</sup>

In regards to the services offered by Colombian consulates, it is worth highlighting:

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31 El Congreso de Colombia, *Ley 1465 de 2011 por la cual se crea el sistema nacional de migraciones y se expiden normas para la protección de los colombianos en el exterior*.

32 El Congreso de Colombia, *Proyecto de Ley No 73 de 2014 por medio del cual se fortalecen los mecanismos de participación de los colombianos en el exterior, se reforma la Ley 1465 de 2011, y se dictan otras disposiciones*.

33 Ministerio de Relaciones Exteriores, “Consulta de misiones de Colombia en el exterior.”

34 Colombia Nos Une, “Consulados móviles.”

35 Redes Colombia, “Sábado Consular.”

- The attention paid to victims of human trafficking in terms of psychological support, medical assistance, or provision of accommodation,<sup>36</sup>
- The services that consulates and diplomatic missions must provide to victims of armed conflict. Colombia grants victims living abroad the possibility of accessing the services and policies designed for the victims of the conflict (e.g. identification as victims, economic compensations). Moreover, the Law regulates the creation of a return program for forced emigrants (see “Economic Policies” section).<sup>37</sup>
- Judiciary and social services, such as the protection of minors, labor consultancy, or supervision of potential trials in which a Colombian national is involved, which by law must be offered by consulates that have more than 10,000 registered Colombians.<sup>38</sup>
- The auxiliar jurídico ad honorem legal service in branches of the national executive, including diplomatic missions. This service allows students in their last year of law school to offer their services for nine months.<sup>39</sup>

### HOME COUNTRY ADMINISTRATION

The Directorate of Migrant Affairs, Consulates and Citizen Services, within the Ministry of Foreign Affairs manages the *Colombia nos une* program. Among other functions, *Colombia nos une* aims at supporting the designing of public policies and strategies addressed to the emigrant community, such as return policies or cooperation with emigrant organizations.<sup>40</sup>

Furthermore, Colombia operates the National Intersectorial Commission on Migration (*Comisión Nacional Intersectorial de Migración*).<sup>41</sup> This commission connects ministries involved in the execution of migration policy (e.g. Ministry of Education, Ministry of Defense) and its main functions are: to suggest

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36 Consulado de Colombia en Madrid, “Asistencia a Connacionales.”

37 El Congreso de Colombia, *Ley 1448 de 2011 por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones*.

38 El Congreso de Colombia, *Ley 76 de 1993 por medio de la cual se adoptan medidas de protección a los colombianos en el exterior a través del servicio consular de la República*, 76; El Congreso de Colombia, *Ley 991 de 2005 por la cual se modifica parcialmente la ley 76 de 1993 y se dictan otras disposiciones*, 991.

39 El Congreso de Colombia, *Ley 1322 por la cual se autoriza la prestación del servicio de auxiliar jurídico ad honorem en los organismos y entidades de la rama ejecutiva del orden nacional, territorial y sus representaciones en el exterior*.

40 Ministerio de Relaciones Exteriores, *Resolución 5813 de 2011 por la cual se crean grupos internos de trabajo del ministerio de relaciones exteriores*.

41 Cancillería, “Comisión Nacional Intersectorial de Migración.”

changes in the design or coordination of migration policy (including policies addressed to the emigrant community); to coordinate studies on migration; to present proposals to increase the return of Colombian emigrants; and to educate Colombians living abroad about the services they can access and their rights.<sup>42</sup> Since its creation in 2003, the commission has been convened only a few times and at the moment of publishing this book is in need of reform, since some of its member institutions do not exist anymore.

The Ministry of Foreign Affairs, together with departmental governments, local entities, and the International Organization for Migration has created the Migrant Service Offices (*Oficinas de Atención al Migrante, OAM*) to provide information to returnees, families of Colombian migrants, and Colombians interested in moving abroad. The *OAM* aim to protect the rights of migrants, provide information (about government services or investment strategies) to emigrants and returnees, or prevent the risks of migration.<sup>43</sup> The offices also offer orientation on health issues, job placement, legal consultancy, or psychological support.<sup>44</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

Fear of not being able to ascertain the origin of remittances led the Colombian government to close most of the remittances channels. In the last years, however, some changes have been made to this policy. The first is the possibility to use remittances to invest in the real-estate market (see next section). The second is the possibility of opening a *Cuenta de Ahorro de Trámite Simplificado (CATS)* account. A council on remittances was created in 2009 in order to incorporate new public and private actors in order to increase the productive use of remittances. At the time of writing this report, this council had not been convened.<sup>45</sup>

### INVESTMENT

The *Mi casa con Remesas* program, managed by the Inter-American Development Bank, COMFAMA and several Colombian *Cajas de compensación* funds, allows families to pay their mortgages with the remittances they receive from their relatives living abroad. All Colombians that receive remittances on a

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42 Ibid.

43 Colombia Nos Une, “Oficinas de atención al migrante.”

44 Ibid.

45 Asobancaria, “Las remesas internacionales como elemento dinamizador de la inclusión financiera.”

regular basis can apply to the program. Both the receiver and sender of remittances will be owners of the property purchased.<sup>46</sup>

Furthermore, the Ministry of Foreign Affairs, through the *Colombia nos une* program organizes real-estate exhibitions abroad (e.g. Madrid, New York City, London) with the goal of attracting Colombians living abroad to invest in the Colombian real-estate market. The idea behind these programs is to channel remittances into investments and not only individual consumption.<sup>47</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

The Colombian government has created the *Colombianos destacados en el exterior* network, which is a brain-circulation network, managed directly by *Colombia nos une*. The network is conceived as a tool to develop the country and aims at fostering knowledge exchange between ‘outstanding’ Colombian emigrants and Colombia.<sup>48</sup>

### RETURN POLICIES

The Ministry of Education handles the recognition of academic and professional qualifications acquired abroad. There are different mechanisms to recognize foreign academic titles depending on the country or the institution awarding the qualification. The aim of the process is to assess equivalency to official qualifications in Colombia. The resolution establishes different criteria for recognition, according to international accords, existing committee rulings. If no accord or previous ruling exists, the case is submitted to an academic committee.<sup>49</sup>

Recognition can take up to 2 months when a recognition agreement already exists, the program is already recognized, or if there is a similar case. If an academic evaluation of the qualification is needed, the process could take up to 5 months.<sup>50</sup>

In addition, the Law of Return regulates a program to foster the return of emigrants. The administration responsible for implementing the law is the Ministry of Foreign Affairs and the Interdepartmental Commission for Return. The general goal of the program is to incentivize the return of Colombian emigrants from a multidimensional perspective. The Law differentiates

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46 Grupo Bancolombia, “Conozca sobre mi casa con remesas.”

47 Consejo Nacional de Política Económica y Social, “Conpes 3603: Política Integral Migratoria.”

48 Colombia nos une, “Colombianos Destacados en el Exterior.”

49 Ministerio de Educación Nacional, *Resolución 5547 de 2005 por la cual se define el trámite y los requisitos para la convalidación de títulos otorgados por instituciones de educación superior extranjeras o por instituciones legalmente reconocidas por la autoridad competente en el respectivo país, para expedir títulos de educación superior.*

50 Ibid.

between four categories of return:<sup>51</sup> Solidarity return, reserved for victims of the armed conflict; Humanitarian return, for Colombians facing threats to their physical safety; Return to work, for Colombians intending to use their qualifications and experiences in Colombia; and Productive return, for Colombians intending to co-fund productive projects linked to the development of their department or municipality.

Finally, the Colombian government has a program to foster the return of scientists working abroad. This program, called *Es tiempo de volver*, is managed by the Administrative Department of Science, Technology, and Innovation and seeks to encourage the incorporation of Colombian scientists educated or working abroad into Colombian universities and research institutes. The program offers funding for the costs of return and social benefits.<sup>52</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is mandatory for all male Colombians; however, military service is not mandatory for non-residents, providing men between 18 and 28 certify that they live abroad at their nearest consulate<sup>53</sup> and demand their military identification, where the exemption is stated.<sup>54</sup>

Another exception to the obligation of military service concerns the victims of the armed conflict living abroad.<sup>55</sup>

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## CULTURAL POLICIES

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Since 2005, Colombia has run special promotion programs, intended to promote Colombian culture, arts or, sports within emigrant communities.<sup>56</sup> Its strategic goals are to preserve and consolidate values related to the nation-

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51 El Congreso de Colombia, *Ley 1565 de 2012 por medio de la cual se dictan disposiciones y se fijan incentivos para el retorno de los colombianos residentes en el extranjero*.

52 Colciencias, “Convocatoria ‘Es tiempo de volver 2014.’”

53 El Congreso de Colombia, *Ley 48 de 1993 - Ley de Reclutamiento*, Art. 23.

54 Jefatura de reclutamiento, “Instrucciones para los colombianos residentes en el exterior.”

55 El Congreso de Colombia, *Ley 1448 de 2011 por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones*.

56 Ministerio de relaciones exteriores, *Decreto 333 de 1995 por medio del cual se adoptan medidas de protección y promoción de las comunidades colombianas en el exterior*; Ministerio de Relaciones Exteriores, *Resolución 4065 de 2005 por medio de la cual se definen y reglamentan los programas especiales de promoción de las comunidades colombianas en el exterior*.

al identity (especially among second- and third-generation migrants); foster integration in the state of reception; help to build emigrant networks; and promote Colombians living abroad.<sup>57</sup> The programs must be proposed either by the consulates or the emigrant community to the Committee for the Promotion of Colombian Communities Abroad, dependent on the Ministry of Foreign Affairs. Once the Committee has approved the activities, they are managed by the respective consulate.<sup>58</sup>

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## EXIT AND TRANSIT POLICIES

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Colombia imposes an exit fee of \$USD 38 that is applicable to all international exits and, therefore, must be paid by all Colombian citizens wanting to exit the country, as well as by foreigners that stay in the country more than 60 days. Emigrant Colombians must not pay the fee when they visit Colombia, but only if they do not stay more than 180 days.<sup>59</sup>

The Colombian government, through *Colombia nos une*, has launched several communication campaigns in recent years to inform potential emigrants about their rights and obligations. For example, the *Con la trata no hay trato* campaign intends to prevent human trafficking by providing information on how to avoid becoming a target of human trafficking using a website, a free phone number, and an e-mail address; and by offering assistance to victims of human trafficking.<sup>60</sup> *Colombia nos une* has also launched a website to assist in finding a job outside Colombia and raise awareness of fraudulent job opportunities.<sup>61</sup>

Colombia does not, however, conduct any systematic communication campaigns to discourage emigration or promote safe transit.

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## SOCIAL POLICIES

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Legislation regulating unemployment benefits in Colombia does not specifically mention the situation of emigrants. However, the requirements to access the protection mechanism make it impossible for nonresidents to enjoy the

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57 Colombia nos une, “Programas Especiales de Promoción.”

58 Ministerio de Relaciones Exteriores, *Resolución 4065 de 2005 por medio de la cual se definen y reglamentan los programas especiales de promoción de las comunidades colombianas en el exterior*, Art. 7.

59 Proexport Colombia, “Impuesto de Salida.”

60 Colombia nos une, “Con la trata no hay trato.”

61 Colombia nos une, “Evite engaños a la hora de aplicar a ofertas laborales fuera de Colombia.”

unemployment insurance. These requirements include actively searching for a job and being enrolled in vocational training,<sup>62</sup> impossible in the case of nonresidents.

The social security system in Colombia is designed to ensure health and financial aid to guarantee the individual well being of all Colombian residents.<sup>63</sup> The social security system is composed of two pillars: healthcare and pensions. On one hand, the *Colombiano seguro en el exterior* program allows emigrant Colombians to access the pension scheme by means of paying a monthly contribution.<sup>64</sup> On the other hand, the healthcare scheme included in the social security system only covers nationals within Colombian territory. The Institute for Social Security (ISS) signed an agreement with *Giros y Finanzas S.A.* (Western Union) to facilitate the payment of contributions to the ISS from abroad.<sup>65</sup> Furthermore, Colombia has signed bilateral agreements with some countries in order to facilitate the their nationals' access to social security schemes (e.g. the agreement signed with Spain in 2006).<sup>66</sup>

Moreover, Colombia participates in the *Semanas binacionales de salud*, a strategy created by the University of California's Health Initiative of the Americas, whose main goal is to offer health services to migrant populations in the US and Canada. Other countries such as Bolivia, Ecuador, Guatemala, Honduras, Mexico, and Peru also participate in the program.<sup>67</sup>

Colombia also offers several educational programs for its emigrant community:

- Organized by the National Learning Service (*Servicio Nacional de Aprendizaje*), the *Cursos virtuales para colombianos en el exterior* program offers online courses on topics such as health, art, culture, entrepreneurship, or sports. The courses are open to residents as well as emigrants.<sup>68</sup>
- The Ministry of Foreign Affairs and the *Universidad Nacional Abierta y a Distancia* have signed an agreement to promote the development of human capital among the emigrant community. The agreement includes access to online education programs that cover primary and secondary education, as well as graduate and postgraduate studies.<sup>69</sup>

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62 El Congreso de Colombia, *Ley 1636 de 2013 por medio de la cual se crea el mecanismo de protección al cesante en Colombia*, Art. 13.

63 El Congreso de Colombia, *Ley 100 de 1993 por la cual se crea el sistema de seguridad social integral y se dictan otras disposiciones*.

64 Colombia nos une, "Tarjetón de servicios para colombianos en el exterior."

65 Consejo Nacional de Política Económica y Social, "Conpes 3603: Política Integral Migratoria."

66 Ramírez, Zuluaga, and Perilla, "Perfil migratorio de Colombia 2012," 100.

67 Colombia nos une, "Semana binacional de salud en Estados Unidos y Canadá."

68 Consulado de Colombia en Orlando FL, "Cursos Virtuales del SENA para colombianos en el exterior."

69 Colombia nos une, "Tarjetón de servicios para colombianos en el exterior."

- The Ministry of Foreign Affairs, the *Escuela de Administración y Negocios (EAN)*, and the International Organization for Migration have an agreement to offer Colombian migrants and their families a 20% reduction in the tuition fees of several e-learning programs taught through the *EAN*. To benefit from the discount, emigrants must be registered in the *Redes Colombia* platform.<sup>70</sup>
- The *Instituto Colombiano de Crédito Educativo y Estudios en el Exterior (ICETEX)* offers emigrant Colombians and their families the possibility to access loans and scholarships to fund studies abroad. For some of the programs offered by the *ICETEX*, only resident citizens can apply. However, the main credit lines, such as the one to pursue a postgraduate degree abroad, are also open to emigrants.<sup>71</sup>

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## SYMBOLIC POLICIES

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*Colombia nos une* has created the *100 Colombianos* award to honor emigrant Colombians who have excelled at the international level. The eligibility requirements are residence outside Colombia, Colombian nationality by birth, professional excellence, and contributions to the community of origin or adoption.<sup>72</sup>

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<sup>70</sup> Colombia nos une, “Descuentos en programas de educación virtual de la Universidad EAN.”

<sup>71</sup> Colombia nos une, “Becas y créditos en educación para colombianos en el exterior.”

<sup>72</sup> Colombia nos une, “100Colombianos.”



- El Congreso de Colombia. *Acto Legislativo 2 de 2015*, 2015. [http://www.secretariassenado.gov.co/senado/basedoc/acto\\_legislativo\\_02\\_2015.html](http://www.secretariassenado.gov.co/senado/basedoc/acto_legislativo_02_2015.html).
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## COSTA RICA

Costa Rica has been a prominent recipient of displaced populations and refugees seeking asylum in the region, especially in the 1970s and 1980s.<sup>1</sup> It is estimated that in 2010 there were 126,418 emigrants,<sup>2</sup> while it is estimated that in 2011 385,000 (around 10% of Costa Rica's population) had been born elsewhere. In contrast, in the last decade, about 12% of the people living in Costa Rica have been immigrants, mostly from Nicaragua (about 74% of all immigrants),<sup>3</sup> El Salvador and Colombia. Although in recent years the immigration numbers have decreased slightly,<sup>4</sup> it is important to note that Costa Rica is one of few the countries of Latin America and the Caribbean with net immigration. Unsurprisingly, in the Central American context, Costa Rica is the country that receives least remittances.<sup>5</sup>

This profile explains that most migration policy in Costa Rica is tilted towards dealing with immigration and immigrant issues. Costa Rica may have formally some organs in charge of emigrant policies, but they have stayed on paper, lost in legal and political formulations that refer to migration in general, but that end up dealing with immigration and immigrants. Furthermore, it is believed that Costa Rican emigrants rarely require the assistance of their state of origin. The document that constitutes the Integral Migration Policy of Costa Rica, for instance, takes for granted that Costa Ricans emigrate to expand their economic income, rather than to survive.<sup>6</sup> As a result of these factors, there are very few emigrant policies, and Costa Rican policymakers are mostly challenged by and occupied with addressing the basic human, labor and social rights of immigrants.<sup>7</sup>

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1 Pellegrino, "La migración internacional en América Latina y el Caribe: tendencias y perfiles de los migrantes," 15.

2 Consejo Nacional de Migración, "Política migratoria integral para Costa Rica," 43.

3 The similarity between Costa Ricans and Nicaraguans and the high degree transnationalism and mobility in the past are obstacles to an accurate count of their number in Costa Rica. It is estimated that in peak times, there were up to one million residents of Nicaraguan origin in Costa Rica. In recent years, the Nicaraguan population has decreased because the economic situation in Nicaragua has improved and other neighboring countries offer better conditions for immigration. Also, El Salvador, Guatemala, Honduras, and Nicaragua are part of the CA-4 group working on plans to regulate traffic not only of goods but of people.

4 CONARE, "Informe Estado de la Nación. Capítulo 2," 110.

5 Consejo Nacional de Migración, "Política migratoria integral para Costa Rica," 44.

6 Ibid.; Presidenta de la República and Ministro de Gobernación y Policía, *Decreto que Oficializa la Política Migratoria 2013-2023*.

7 Gatica López, "Estudio Migratorio de Costa Rica."

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The Constitution, which was reformed in 1995 to establish that Costa Rican nationality is inalienable, allows dual nationality for Costa Ricans by birth.<sup>8</sup> This does not apply to foreigners wishing to become Costa Ricans. They must express in their naturalization application that they would renounce their nationality, unless a treaty permitting dual nationality exists between Costa Rica and the country of origin.<sup>9</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

The only conditions under which Costa Rican citizens may lose their citizen rights is because of judicial order or imprisonment.<sup>10</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

Costa Ricans residing abroad formally retain all their rights. However, their political rights are greatly restricted, as will be seen in the next section. In the past, *naturalized* Costa Ricans lost their citizenship after residing abroad for more than six years, but this changed in 1961.<sup>11</sup>

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## SUFFRAGE

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While previous legislation had foreseen external voting, it was not regulated until the electoral reform of 2009 when it was integrated in the new Electoral Code.<sup>12</sup>

Presently, Costa Ricans abroad may vote in national referenda, but not for legislative elections for the Legislative Assembly, nor for any other sub-national elections (provinces, cantons, districts or municipalities).<sup>13</sup>

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8 Asamblea Legislativa, *Ley No. 7514 -Reforma Constitucional*, Art. 16 and 17.

9 Asamblea Legislativa, *Ley de Opciones y Naturalizaciones*, Art. 11, inciso 6; TSE, *Reglamento relativo a los trámites, requisitos y criterios de resolución en materia de naturalizaciones*, Art.8, j; Art.45 j.

10 Asamblea Nacional Constituyente, *Constitución Política de Costa Rica*, Art. 91.

11 Tribunal Superior Electoral, *Reglamento relativo a los trámites, requisitos y criterios de resolución en materia de naturalizaciones*.

12 Asamblea Legislativa, *Código Electoral*; *Ley No. 8765*, Art. 187.

13 Alvarado Salas and Esquivel Alfaro, “El proceso de descentralización en Costa Rica,” 12.



Recently, 12,654 voters abroad had registered to vote in the elections of February 2014. They were mostly in the US, Canada, México, Spain, Guatemala, Panamá, Venezuela and France.<sup>14</sup>

#### **VOTING RIGHTS OF NON-RESIDENT CITIZENS**

A restriction would only apply to naturalized Costa Ricans, who cannot vote in the year following the acquisition of their naturalization certificate.<sup>15</sup>

#### **CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS**

Non-resident Costa Ricans formally have no limitation to stand for office, but they are not specifically enfranchised by the electoral code.

#### **VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS**

Costa Ricans abroad may only vote in embassies or consulates authorized as polling stations. There were 53 in the world for the last election, in February 2014. In that election the “electronic vote” was piloted. This is not remote e-voting via internet, but voting with a machine that is installed in the polling station.<sup>16</sup> Proxy voting is permitted only for persons who cannot vote by themselves due to disability, but helpers must also be Costa Rican citizens.

#### **REGISTRATION FOR FRANCHISE**

The civil registry prepares the electoral roll 6 months in advance of each election.<sup>17</sup> The provisional lists are sent to police authorities of each administrative district, who must exhibit them for public consultation for four months to allow for corrections. This means that registration in the electoral roll is automatic for Costa Rican citizens residing in Costa Rica.

In contrast, non-resident Costa Ricans must register first as voters abroad in a separate electoral roll at the nearest consulate.<sup>18</sup>

#### **MODE OF REPRESENTATION**

There is no representation of non-resident citizens in the Legislative Assembly. Votes from non-resident citizens for the presidential elections are counted separately and added to the totals rather than any regional totals.

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14 Tribunal Superior Electoral, “Boletín Estadístico Dirección Ejecutiva Del TSE”; Tribunal Superior Electoral, “Boletín Estadístico 2014.”

15 Asamblea Nacional Constituyente, *Constitución Política de Costa Rica*, Art. 94.

16 Paola Alvarado, Coordinator of the implementation of the vote of Costa Ricans abroad, TSE, San José, Costa Rica, telephone interview, November 18, 2014; Asamblea Legislativa, *Reglamento para el ejercicio del voto en el extranjero*.

17 Asamblea Legislativa, *Código Electoral*; Ley No. 8765.

18 Asamblea Legislativa, *Reglamento para el ejercicio del voto en el extranjero*, Decreto No. 04-2013, La Gaceta No. 89, 2013.



## EXTERNAL VOTING IMPLEMENTATION

External voting was implemented for the first time in the presidential elections of 2014. The state promotes external voting through a campaign so far restricted to internet media and social networks: YouTube videos, the Supreme Electoral Court (*Tribunal Supremo Electoral*, TSE) Facebook page and Twitter profiles, and the website of the TSE for the elections organized abroad. Also, there are booths at the International Airport Juan Santamaría.<sup>19</sup>

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

There is no mention in relevant laws and party regulations of the rules applying to party offices abroad, so they could be allowed, but no evidence that parties have opened offices abroad has been found. However, financial support from foreigners in electoral campaigns in Costa Rica is strictly prohibited,<sup>20</sup> as is foreigners' political involvement in internal affairs.<sup>21</sup> Oddly, foreigners are allowed to donate to education, training, and research for political parties.<sup>22</sup> In their statutes, parties must include a declaration that they vow not to subordinate their actions to foreign states or organizations.<sup>23</sup>

### POLITICAL CAMPAIGNS

There is no regulation of political campaigns abroad. Candidates of the biggest parties, National Liberation (*Liberación Nacional*) and Citizen Action (*Acción Ciudadana*), attempted to campaign in the USA in person, or in other parts of the world via the internet and social media.<sup>24</sup>

### MEMBERSHIP

In general, there are no restrictions regarding residence for internal candidates, or membership, as far as statutes of political parties suggest.<sup>25</sup>

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19 Paola Alvarado Quesada, Coordinator of the implementation of the vote of Costa Ricans abroad San José, Costa Rica, telephone interview, November 18, 2014.

20 Asamblea Legislativa, *Código Electoral 2009 Ley 8765*, vol. La Gaceta No. 171, 2009, Art. 28. See also Asamblea de la República, *Código Electoral 2006*.

21 Asamblea Nacional Constituyente, *Constitución Política de Costa Rica*, Art. 19.

22 Ibid. Ley 8765, La Gaceta No. 171, Art. 124.

23 Ibid. La Gaceta No. 171, Art. 52, c.

24 Araya, "Candidatos se apuran para conquistar voto en el extranjero - El Financiero."

25 Partido de Liberación Nacional, *Estatutos del Partido de Liberación Nacional*; Partido Acción Ciudadana, *Estatutos del Partido Acción Ciudadana*.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT THE NATIONAL LEVEL

In Costa Rica there is no consultative body for emigrant policy making. There is a National Council on Migration (*Consejo Nacional de Migración*), which was created to guide policy-making on immigrant issues. Although in its mandate also includes the objective of creating emigrant policy to link the Costa Rican diaspora to the country,<sup>26</sup> the two seats reserved in it organ for representatives of migrant organizations of civil society have been always occupied by immigrant organizations.<sup>27</sup> Previously, the National Council on Migration had to meet ordinarily twice a week and extraordinarily by request of its president.<sup>28</sup> In the new regulations there is no mention of the frequency with which it has to convene, but usually meets twice a month. The National Council on Migration is chaired by the Minister of the Interior and includes several other ministers.<sup>29</sup> The Council has the right to make recommendations and consultations to government agencies.<sup>30</sup> While government agencies must respond to the Council, the executive branch is not obligated to follow all recommendations made.<sup>31</sup>

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## ADMINISTRATION

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### CONSULATES

In 2014, Costa Rica had 93 consulates around the world. Of them, only 53 are regular and the rest are honorary.<sup>32</sup> A report from 2013 also states there

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26 Asamblea Legislativa, *Ley General de Migración y Extranjería*; Ley No. 8764, La Gaceta No. 170, 2009, Art. 11, (3).

27 Consejo Nacional de Migración, "Acta sesión ordinaria del Consejo Nacional de Migración No 79-2012."

28 Poder Ejecutivo, *Reglamento a la Ley General de Migración y Extranjería No. 7033, Decreto No. 19010*, Art. 6.). In the new regulations (Presidenta de la República and Ministro de Gobernación y Policía, *Reglamento de Extranjería*; Decreto No. 37112.) there is no mention of the frequency with which it has to meet.

29 Asamblea Legislativa, *Ley General de Migración y Extranjería*; Ley No. 8764, La Gaceta No. 170, Art. 10.

30 Ibid. Art. 9.

31 Eunice Hernández, speaker and secretary of the *Consejo*, confirmed by Kathya Rodríguez Araujo, head of the *Dirección General de Migración y Extranjería*, email communication on February 17, 2015.

32 Marcel Charpentier Ramírez, advisor at the *Departamento Consular, Dirección General de Servicio Exterior Ministerio de Relaciones Exteriores y Culto*, San José Costa Rica, email communication November 18, 2014.

were 19 mobile consulates in the USA to reach Costa Ricans who live far away from consulates.<sup>33</sup>

Costa Rican consulates have not adopted any other function than the traditional functions of the consulates to issue documents and the traditional “consular protection” of their citizens (most of which relates to cases of detention). In contrast to other Latin American countries, registration in consulates is independent from registration in the electoral roll, which also must be done in the consulate. The consular register is unique to each consulate and the information is sent twice a year to San José. This means that there is a central register of people living abroad to provide basic information on the citizens in a consular circumscription.<sup>34</sup>

### HOME COUNTRY ADMINISTRATION

Beyond the National Council on Migration, there is no recognizable entity in Costa Rica responsible for emigrant policy.

### REMITTANCES

Despite having the 2<sup>nd</sup> most ample coverage of bank services for the population in Latin America (behind only Guatemala), there is no policy to attract remittances and no cooperation between the many agencies and financial authorities that manage the flow of remittances.<sup>35</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

*Red TICOTAL* was created in 2012 to assemble Costa Rican scientists and engineers who work or study abroad. The network aims to connect them with the latest scientific and technological developments in Costa Rica through the establishment of a permanent instrument for their interaction, which should facilitate the exchange of ideas, contacts, and experiences and identifies opportunities for cooperation. *Red TICOTAL* is led by the National Academy of Sciences, in collaboration with the Ministry of Science and Technology (*Ministerio de Ciencia y Tecnología, CONICIT*) with funding through the Ministry of Foreign Affairs.<sup>36</sup>

### RETURN POLICIES

There are no return policies for emigrants, no campaigns aiming to convince them to return, and no programs to reintegrate returnees.

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33 Alfaro Solano, “Informe Final de Gestión.”

34 Mariela Naranjo Rivera, administrative assistant at the *Departamento Consular, Dirección General de Servicio Exterior Ministerio de Relaciones Exteriores y Culto*, San José Costa Rica, Skype interview, November 18, 2014.

35 Centro de Estudios Monetarios Latinoamericanos, *Programa de Aplicación de los Principios Generales para los Mercados de Remesas de América Latina y el Caribe - Paraguay*, 55.

36 All information translated and paraphrased from: <http://ticotal.cr/>.

Regarding the recognition of qualifications and titles acquired abroad, the process begins with the National Commission of Rectors (*Comisión Nacional de Rectores*, CONARE), where all documents, translated and certified by the Ministry of Foreign Affairs, are received.<sup>37</sup> Another Costa Rican higher education institution, most often the University of Costa Rica takes responsibility for certifying the studies. The process may take between 3-4 months. Costa Rica has no treaties with other countries for the automatic recognition of titles.<sup>38</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

There is no military service in Costa Rica.

There is only mandatory social service for professionals in health sciences.<sup>39</sup> This also applies to those who studied abroad but want to exercise their profession in Costa Rica.

Regarding taxation, Costa Ricans abroad have to pay taxes in Costa Rica as long as they derive remuneration or earnings from a source of economic activity in Costa Rica. If they are not domiciled in Costa Rica, they must name a legal representative who will declare in their name.<sup>40</sup> There is also a “solidarity tax” on housing, as long as the property in Costa Rica surpasses the value of 120,000,000 Colones (ca. USD\$220,000).<sup>41</sup>

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## EXIT AND TRANSIT POLICIES

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There is a USD\$29 exit tax established in 2012 that applies to both nationals and foreigners exiting Costa Rica by airplane.<sup>42</sup> As of March 2014, there is also a (USD\$5-7) tax to the exit by land.<sup>43</sup>

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37 Embajada de Costa Rica en Francia, “Reconocimiento de Títulos.”

38 Two CONARE employees, telephone interview, November 17, 2014.

39 Presidente de la República and Ministro de Salud, *Reglamento Servicio Social Obligatorio Profesionales Ciencias Salud*, Art. 2.

40 Asamblea Legislativa, *Código de Normas y Procedimientos Tributarios*; Ley No. 4755.

41 Ministerio de Hacienda Costa Rica, “¿Cómo puede presentar la declaración y efectuar el pago del Impuesto Solidario un Contribuyente que se encuentra en el extranjero? | Preguntas y Respuestas Frecuentes de TribuNet.”; Deysi Campos, employee of the Ministry for Housing, telephone interview, October 16, 2014.

42 COIMSAcr.com, “Impuesto de salida Costa Rica.”

43 Hacienda: Dirección General de Tributación, N° DGT-R-05-2014.

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## SOCIAL POLICIES

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Non-resident Costa Ricans do not receive any other supplementary healthcare services in exchange for the generous social policies they would enjoy in Costa Rica. However, they may receive their pensions abroad. If they live abroad for over 6 months, they will need to provide a certificate of survival every six months, translated and authenticated through the consulate (particularly by the consul) and also by the Ministry of Foreign Affairs in Costa Rica.<sup>44</sup>

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## SYMBOLIC POLICIES

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Costa Rica had a communication campaign that aimed to reinforce the connection to Costa Rica and provide information considered relevant for Costa Ricans abroad. It took the form of a monthly email bulletin also available online. The first issue was published in December 2012,<sup>45</sup> however, there have been no bulletins published since December 2013.

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<sup>44</sup> [portal.ccss.sa.cr/portal/page/portal/Gerencia\\_de\\_Pensiones/Organizacion/Informacion\\_General](http://portal.ccss.sa.cr/portal/page/portal/Gerencia_de_Pensiones/Organizacion/Informacion_General), Confirmed by Vianney Solano Cerdas, *Régimen de invalidez, vejez y muerte, Caja Costarricense de Seguro Social*, San José, Costa Rica, telephone interview, October 16, 2014.

<sup>45</sup> [www.tse.go.cr/pdf/infotiquicia/Infotiquicia01.pdf](http://www.tse.go.cr/pdf/infotiquicia/Infotiquicia01.pdf)

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## CUBA

The Cuban Revolution of 1959 greatly accelerated the country's emigration dynamics, leading to a large-scale exodus of disaffected sectors of society. As a result, the relationship of Cuba to its diaspora has for decades been overshadowed by the political confrontation between the socialist government on the island and an emigré community that identified as “exiles,” resident in the U.S. and glued together by the display of uncompromising opposition to the Fidel Castro-led government in Havana.<sup>1</sup>

While many European and Latin American countries also host Cuban emigrants, no other place of settlement comes close in terms of size or importance to the U.S. Today, Cuban-Americans (combining Cuban-born and second-generation) are the third largest Latino group in the United States, numbering more than 2 million people. About 85% self-identify as “white” according to census data.<sup>2</sup> Florida, with nearly 70% of all Cuban-Americans, and in particularly the larger Miami-Dade area, became the foremost place of settlement for Cuban emigrants. They not only became an essential driver of Miami's dynamic economic development since the 1960s,<sup>3</sup> but also became a showcase example of a successful immigrant community in the U.S.

Cuban emigrants were essentially from the upper and middle classes who saw their economic and social interests affected by the revolutionary government. In the years immediately after the Revolution, Cuban exile groups were instrumental in attempts to overthrow Cuba's socialist government by force, most prominently in the U.S.-backed Bay of Pigs invasion attempt in 1961, setting the stage for the highly politicized relations between emigrants and the Cuban government for the past decades. The Cuban government contributed to the high-pitched polarization by depicting emigrants as “traitors,” “worms,” and “scum” as well as by restrictive migration and citizenship policies.<sup>4</sup>

Over time, Cuban emigrants turned “from exiles to immigrants”<sup>5</sup> eventually evolving into the hyphen status of ‘Cuban-Americans’, mostly rather well integrated into US society and endowed with US citizenship but with strong transnational ties.<sup>6</sup> They also developed an efficient political lobby group which in the 1980s and 1990s became very influential in U.S.-Cuba policy, refueling the political polarization with the Havana government.

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1 Portes, “The Cuban-American Political Machine.”

2 Tafoya, “Shades of Belonging.”

3 Portes and Stepick, *City on the Edge*.

4 Castro, *Discurso pronunciado por el comandante en jefe Fidel Castro Ruz en el acto conmemorativo del Primero de mayo*.

5 Rieff, “From Exiles to Immigrants.”

6 Eckstein and Barberia, “Grounding Immigrant Generations in History: Cuban Americans and Their Transnational Ties.”

Due to the confrontation with the U.S., the politicization of migration and the country's single-party-system, emigrant policies in Cuba have developed very differently from the rest of the continent. For decades, the Cuban state emphasized that emigration is an option of "definite exit" (*salida definitiva*), and that by leaving, emigrants forego all rights and claims in Cuba. Thus, emigrant policies in the sense of reaching out to citizens abroad was a non-issue in Cuban politics until rather recently. Change began to come in the economic crisis of the 1990s with the growing importance of remittances from emigrants to their family members on the island. In particular, the migration reform of 2013 liberalized travel to the point that it facilitated a new form of emigration that formally maintains residence in Cuba.

Currently three different migratory categories can be distinguished:<sup>7</sup>

- Emigration: According to the new Migration Law that came into effect in 2013, a Cuban is considered emigrated when he or she leaves the country in breach of migratory regulations or stays outside the country for more than 24 months without complying with the corresponding regulations (e.g. paying monthly fees or updating the passport in a Cuban consulate). An emigrant in Cuban terms is thus a criminal. Since 2013, it is also possible for emigrants to repatriate and return to Cuba; previously, this was only granted in exceptional cases.
- Residence abroad: Since 2013, the permit to reside abroad (*Permiso de Residencia en el Exterior*, PRE), formerly only granted to those married to a foreigner or similar cases, is granted more flexibly. It allows the citizen to live abroad for an indefinite time without being considered an emigrant or losing Cuban residence status, without having to pay monthly fees. Citizens with a PRE retain their rights to social services, pensions, and properties. They may come back to reside in Cuba whenever they desire.
- Travel/Temporary migration: Those citizens who travel for private purposes may stay outside Cuba for up to 24 months, with extension possible against payment of a monthly sum and updating of the passport. The line between travel and temporary migration is deliberately blurred, as in this category, residence in Cuba is formally maintained. As a consequence, these migrants continue to enjoy all rights and properties in Cuba, including pensions, workplace, and healthcare benefits.

A particular challenge in analyzing Cuban emigrant policies is that administrative practice does not only correspond to legal stipulations (e.g. the

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<sup>7</sup> Arboleya Cervera, *La ley migratoria y la relación con los emigrados*, 2012.

prohibition of dual nationality). Moreover the recent migration reform of 2103 sidesteps many issues associated with citizens living abroad by facilitating an option to travel for up to 24 months (plus possibility to renew) while maintaining Cuban residence status. Although, in practice, this often serves for temporary migration with extended (or even primary) residence abroad. While there are set laws and regulations, Cuban state authorities retain significant discretion in their application. A further difficulty in the Cuban case stems from the restricted public discussion on these issues, as much in parliament as in the national media.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Dual nationalities are forbidden *de jure*, but recognized *de facto*. Cuba does not recognize dual nationalities, and that once a Cuban acquires another nationality, he loses his Cuban one.<sup>8</sup> However, this remains largely theoretic, as the loss of Cuban nationality does not happen automatically but requires formal renouncement. There are thousands of Cubans who hold another nationality alongside the Cuban one, most commonly American or Spanish. According to estimates, around 55% of the two million Cubans living in the United States hold U.S. citizenship;<sup>9</sup> in Spain, the *Ley de Memoria Histórica* enabled more than 60,000 Cubans to successfully apply for Cuban citizenship<sup>10</sup>.

Emigrated Cubans cannot invoke their foreign nationality before Cuban authorities, but require a Cuban passport to travel to Cuba. *De facto*, Cuba basically ignores their second nationality. Even if a Cuban emigrates permanently but does not formally renounce citizenship, Cuban authorities still consider him or her Cuban.<sup>11</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

Cubans are considered emigrated when they have stayed outside the country for more than 24 months without abiding to the specific regulations.<sup>12</sup> Before the 2013 reform of the Cuban migration regime, this period was only 11 months. The Cuban government may want to strengthen the ties to its expatriate community, in particular with a view towards maintaining a high flow of remittances and stimulating return migration.

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8 República de Cuba, *Constitución de la República de Cuba*, Art. 32.

9 Brown and Patten, "Hispanics of Cuban Origin in the United States, 2011."

10 Oroza Busutil, "Cuba y su emigración: la historia de un conflicto."

11 Piorno Garcell and Fernández Íñiguez, "Cuba, constitución y ley de ciudadanía."

12 Arboleya Cervera, *La ley migratoria y la relación con los emigrados*, 2012.

Cuban legislation does not see emigration as a cause for the loss of citizenship/nationality.<sup>13</sup> Rather, the loss of the Cuban citizenship requires both formal renunciation and the acquisition of another citizenship.<sup>14</sup>

#### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

The rights for external citizens vary according to the three categories described in the introduction.

In the case of definite emigration, their property may be confiscated, if not transferable to family members on the island).<sup>15</sup> Emigrants are not treated for free in the Cuban healthcare system; they require insurance upon entering the country. Emigrants do not receive any Cuban state pension, and the family of permanent emigrants no longer receives subsidized food rations for the emigrated person. Since 2013, all emigrated Cubans have the possibility to repatriate and, in that case, may continue to enjoy all citizen rights.

Cubans with a permit to reside abroad (*PRE*), in contrast, maintain their Cuban residence status and ID card as well as all property and hereditary rights even if residing abroad for prolonged periods of time. However, there are loopholes in this regulation as the insurance is not often checked upon entering the country and they retain their Cuban ID card (*carne de identidad*), which usually is accepted for free treatment in Cuban hospitals. Cubans with a *PRE* continue to receive pensions. These are deposited into their bank account while they are abroad<sup>16</sup>. Usually, their family members also continue to receive subsidized food rations.

Temporary emigrants (those who stay abroad for less than 24 months) maintain all Cuban citizen rights, as they are not considered to have emigrated. They maintain their residence and ID card, and as such they can access all healthcare services on the island. They continue to receive pensions and family members continue to receive their subsidized food rations.

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### SUFFRAGE

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#### VOTING RIGHTS OF NON-RESIDENT CITIZENS

There are no competitive elections in Cuba as the only party allowed is the Communist Party (PCC). Nevertheless, elections are regularly held to elect members of the National Assembly. There are no direct presidential elections, as the President of the State Council is elected by the National Assembly.<sup>17</sup>

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13 Juventud Rebelde, "Los cambios al detalle."

14 Vega Castro, *Una mirada a la nacionalidad y ciudadanía en Cuba*.

15 Oroza Busutil, Entrevista a Oroza Busutil, Scholar at the Centro de Estudios de Migraciones Internacionales, Universidad de la Habana.

16 Arboleya Cervera, "La ley migratoria y la relación con los emigrados,"

17 República de Cuba, *Ley Electoral*, Art. 143.

In order to have the right to vote in national elections, Cubans must have maintained residence on the island for two years preceding the election and be registered in the electoral district of their residence. Thus, non-residents are not enfranchised. This also applies to national referenda regional and local elections.<sup>18</sup>

#### **CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS**

To be eligible to stand for election to the National Assembly or to regional assemblies, Cubans must have maintained permanent residence in the country for at least five years prior to the elections.<sup>19</sup> Non-residents are thus excluded.

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#### **REGULATION OF POLITICAL COMPETITION**

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As there are no competitive elections in Cuba, thus, there are no electoral campaigns.

#### **PARTY OFFICES IN HOST COUNTRIES**

In principle, there are no political party offices abroad. However, the Cuban Communist Party (PCC) has structures outside the country in the context of official Cuban missions, which consist of Cuban nationals; however, these are not party offices in the proper sense. For example, these party structures are not allowed to accept new party members.<sup>20</sup>

#### **MEMBERSHIP**

The member status of those PCC members who take up residence abroad for a prolonged or permanent time, become “deactivated.”<sup>21</sup>

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#### **ADMINISTRATION**

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#### **CONSULATES**

Cuba has traditionally a very broad network of representations abroad, totaling 120 embassies and 21 general consulates worldwide in 2015.<sup>22</sup>

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<sup>18</sup> Ibid. Art. 6.

<sup>19</sup> Ibid. Art. 8.

<sup>20</sup> Partido Comunista de Cuba, *Estatutos del Partido Comunista de Cuba*, Art. 48; Partido Comunista de Cuba, *Reglamento para las organizaciones de base del Partido Comunista de Cuba*, Art. 6.

<sup>21</sup> Partido Comunista de Cuba, “Reglamento para la desactivación de militantes o aspirantes del Partido Comunista de Cuba,” Art. 1.

<sup>22</sup> MINREX, “Sitio oficial del Ministerio de Relaciones Exteriores de Cuba.”

The vast majority of Cuban emigrants reside in the USA, with which Cuba only recently restored diplomatic relations, in 2015. There are no further consulates in the US aside of the embassy in Washington and a consulate in New York. While Cuba's global consular network has not expanded greatly between 1990 and 2010, the resumption of diplomatic relations with the US is likely to drive an expansion of Cuba's consular network in the US. The project of opening a Cuban consulate in Miami or Miami Beach became a hotly contested issue in local politics, so that the first consulate in the US is likely to be opened in St. Petersburg, Florida.<sup>23</sup>

### HOME COUNTRY ADMINISTRATION

Since 1994, the Ministry of Foreign Affairs has a Department for Consular Affairs and for Cubans Residing Abroad (*Dirección de Asuntos Consulares y de Cubanos Residentes en el Exterior, DACCRES*). This department was created to "normalize" relations with the Cuban diaspora; it is responsible for communication and exchange with expatriates and both attends and hosts conventions with emigrated Cubans deemed friendly to the Cuban state. The DACCRES has no autonomy but is a regular division within the Ministry of Foreign Affairs.

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## ECONOMIC POLICIES

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### REMITTANCES

Remittances have become a pillar of the Cuban economy. Remittances were estimated at USD\$1.7 billion in 2014,<sup>24</sup> higher than the country's revenues through the export of goods. Still, Cuba's economic structure is not fully conducive to the influx of remittances, and the Cuban government does not pursue an officially declared strategy to attract remittances. However, the legalization of the U.S. dollar in 1993 had the clear aim to attract remittances, and established facilities to send and spend these legally. (Prior to 1993 this was inexistent). Remittances, which are largely spent on private consumption, are absorbed by the Cuban state through its monopoly on hard-currency retail stores<sup>25</sup> Cubans can also exchange their hard currency remittances for Cuban pesos (CUP) in state exchange offices.

Still, all formal money transfers (Western Union etc.) are processed by state agencies; a large share of remittances enters the country with private persons. In the past, the influx of remittances had also been greatly limited by US restric-

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23 Herald, "Esta ciudad de Florida sería la sede del consulado cubano."

24 Frank, "Cuba Inches toward Transparency, Seeking Investment and Credit."

25 Pérez Villanueva, *Cincuenta años de la economía cubana*.

tions<sup>26</sup> However, with the American-Cuban rapprochement since December 17, 2014 many restrictions have been eased, including the use of U.S. credit cards on the island which potentially may become a key means to transfer remittances. In addition, remittances in kind have increased greatly and contribute to the emerging private sector. Moreover, they are also supporting the lifestyle of many Cubans and are a key element in the expanding number of mobile phones and digital communication tools on the island. Economically, the government is benefitting from this increased communication through the high-priced tariffs of the state telecom monopoly. Funding telecom costs has become a typical method of paying remittances in kind from family members abroad.

### INVESTMENT

The state seeks large-scale foreign investments. New possibilities have been opened up for investors and taxes have been lowered. Ministry of Foreign Trade and Investment publishes a catalogue of investment opportunities. Still, each investment must be negotiated with the Ministry and regulations are extensive.<sup>27</sup> So far, no foreign investment of Cuban emigrant capital has been officially reported, and there is no formal program to attract investments from emigrants.

In practice, however, the current reform of the Cuban economy stimulates processes of informal emigrant investment. While emigrants are formally still banned from opening small enterprises, a significant part of the small private enterprises (like cafeterias, restaurants, or tourist accommodation rentals) are financed at least in part by remittances or remittances in kind from family members abroad in schemes that can be understood as informal intra-family loan and investment arrangements. The same holds true for the recently legalized housing market, which is driven to a large extent by money from abroad, although emigrants are still not eligible to buy houses in Cuba and have to rely on family members or middle-men.<sup>28</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

No formal network or official program exists. The 2013 migration law and its liberalization of travel can be seen as an attempt to stem the brain-drain processes by allowing easier residence abroad without having to opt for definite emigration. The recent changes in US regulations that allow Cuban citizens to receive payments when working in the US is likely to support these steps. However, the impact may be ambivalent, and it is too early to fully assess the

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<sup>26</sup> Ibid.

<sup>27</sup> Asamblea Nacional, *Ley de Inversión Extranjera*; Pérez Villanueva, *Cincuenta años de la economía cubana*.

<sup>28</sup> Peters, "Cuba's New Real Estate Market."



implications. The Cuban government has repeatedly expressed its discontent over the loss of highly qualified workers and the growing global imbalances due to this phenomenon.<sup>29</sup>

### RETURN POLICIES

The Ministry of Education (more specifically, its law faculty) is responsible for the recognition of university or high school qualifications. Recognition of qualifications largely remains on a case-by-case basis.<sup>30</sup>

There is no systematic return policy, and there are no specific communication campaigns to this end. However, the 2013 reform of the migration law has opened a wide door for repatriation of emigrants. Also the improved relations with the US, improved access to telephone and Internet communication, and liberalized travel rules are likely to make a return option more feasible for emigrated Cubans. This may prove to be in the economic interest of the Cuban government.

Since the migration reform of 2013, emigrants who repatriate can make use of all social benefits again: Free medical care and education, a pension (given they have worked for a sufficient time in Cuba to be eligible). They can even get a food-rationing book should they so desire. It is also possible to transfer pensions obtained in another country to the returnee in Cuba. This reform seems to be aimed at Cuban-American pensioners who want to return to the island.<sup>31</sup> According to unofficial sources, in 2013 and 2014 about 10,000 emigrants are said to have come back to reside in Cuba.<sup>32</sup>

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### OBLIGATIONS

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#### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Cubans who have formally emigrated do not have to comply with military (or social) service, nor do they pay taxes.

Those holding a *PRE* are typically over the age of military service.

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29 Ministerio de Educación Superior de la República de Cuba, “Cuba alerta contra desigualdades en América Latina.”

30 Ministerio de Educación Superior, “Reconocimiento de estudios realizados en el exterior.”

31 Alfonso, “Emigrados podrán regresar a vivir en Cuba.”

32 Hernández, Entrevista with Rafael Hernández, editor of TEMAS Magazine.

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## EXIT AND TRANSIT POLICIES

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Prior to the liberalization of travel in 2013, Cubans who wanted to go abroad faced high restrictions, except if for official diplomatic or work purposes or on humanitarian missions. Private travel, however, required a special exit permit (*permiso de salida*), which could be granted or denied by the authorities, and which allowed for a stay of up to 11 months abroad. The residence abroad permit (PRE) allowed those Cubans married to foreigners to live abroad for an indefinite period.<sup>33</sup> Emigrating illegally, for example, by boat to Florida or abandoning an official mission abroad, would result in the denial of return to Cuba and the loss of all belongings on the island (provided there were no family members in Cuba).

Since the 2013 migration law, every Cuban holding a passport may travel abroad and stay outside the country for 24 months without a separate permit. Passports may be denied to citizens of “vital importance” to the country, such as cadres in high offices, athletes, or technicians in strategic sectors. A passport can also be denied for national security or defense reasons (which remain unspecified). Also, Cubans completing their military service are not allowed to travel, nor are legal offenders or those facing a lawsuit. Underage Cubans are guaranteed freedom to travel abroad.<sup>34</sup>

Severe practical restrictions for all Cubans without access to hard currency income or financial support from family abroad arise from the high cost of obtaining a passport (100 CUC = 100 USD) and airfare in relation to the depressed Cuban state salaries.<sup>35</sup>

Emigration remains illegal in principle, and properties may still be confiscated upon emigrating illegally. But emigrants may now return to the island after 8 years – provided the authorities see no security threats. Those who were under 16 at the moment of illegal emigration may return right away. The possible reasons for granting a permit to reside abroad (PRE) were extended in 2013.<sup>36</sup>

Many Cubans may make use of the new liberal travelling categories, staying outside the country as travelers, but actually settling and working in the receiving country.

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33 Consejo de Ministros, *Decreto No. 26 de 19 de Julio de 1978 “Reglamento de la Ley de Migración” (Edición Actualizada)*.

34 Consejo de Estado, *Decreto-Ley 302 por la cual se enmienda la Ley Número 1312*.

35 In 2014, according to Cuba’s National Statistics Institute, the average state salary was 584 Cuban pesos (CUP) per month, which, at the rate of Cuba’s official currency exchange offices, is equivalent to a mere USD\$24. EFE, “El Salario Medio Estatal En Cuba Subió Un 24 Por Ciento En 2014 Y Se Sitúa En 24 Dólares/mes.”

36 Consejo de Estado, *Decreto-Ley 302 por la cual se enmienda la Ley Número 1312*.

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## SOCIAL POLICIES

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Emigrants lose their employment benefits as well as pensions upon emigrating. If they formally repatriate, they regain access to all employment benefits and pension claims (based on the years they have worked in Cuba) they had formerly lost.<sup>37</sup>

Cubans with a permit to reside abroad (*PRE*) as well as temporary migrants who leave Cuba as travelers may retain their workplace or employment benefits and continue to receive pensions, which are deposited into their bank account when they are abroad.<sup>38</sup>

Emigrants are not treated for free in the Cuban health system but instead require insurance upon entering the country.<sup>39</sup> Technically, the same is true for those Cubans holding the *PRE*. However, there are loopholes in this regulation as often the insurance is not checked upon entering the country and if they retain their Cuban ID, they can obtain free treatment in all hospitals.

Temporary migrants who stay abroad as travelers retain their residence and ID card and can access all healthcare services on the island.<sup>40</sup>

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## SYMBOLIC POLICIES

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The Cuban government has no specific campaigns or awards or celebratory events for emigrants. However, since the 1990s, and more specifically with the economic reforms under Raúl Castro, the discourse towards the emigrants has been moderated and tends to separate “good” from “bad” emigrants – bashing the political representatives and organizations as the “Miami mafia” while adopting a neutral line towards Cubans abroad who do not engage in politics or what the government sees as hostile propaganda. Specifically, the cultural sector serves as a field of informal symbolic policies. There have been important cases of rehabilitation of artists who had gone into exile and a semi-official notion has emerged that the Cuban culture is indivisible, no matter where it is being produced. At the same time, a range of important authors and artists who emigrated remain banned or marginalized from state media or educational curricula.

As for formal politics, the *DACCRE* has hosted a number of events on the island to which emigrant Cubans were invited. Its director, Rafael Dause,

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37 Arboleya Cervera, “La ley migratoria y la relación con los emigrados,”

38 Ibid.

39 Embajada de Cuba en Venezuela, “Pólizas de seguro.”

40 Consejo de Estado, *Decreto-Ley 302 por la cual se enmienda la Ley Número 1312*.

has attended meetings and activities of Cuban expatriate communities in different countries. There are meetings of pro-government (or at least non-hostile) Cuban associations in various countries in the world.<sup>41</sup>

The Cuban Interest Section in the US organized a meeting of Cuban Residents in 2012 and a second one, with around 100 participants, in 2014. Both were held in Washington DC.<sup>42</sup>

In Europe, Cuban emigrant associations regularly organize the *Encuentro de Cubanos Residentes en Europa*, which is held each year in a different European country. The 2014 conference was hosted in Vienna, Austria.<sup>43</sup> In 2012, the congress was held in Madrid, Spain, by the Federation of Cuban Residents in Spain, *FACRE*, which consists of 13 regional associations in the country.<sup>44</sup>

In the US, there are various Cuban anti-government emigrant or exile groups. Until 2001, the most important one was the Cuban-American National Foundation (CANF), which developed an influential lobby work to promote hardline US policy towards Cuba and pressed for an intensification of the embargo. In 2001, the more hardline sectors split from the CANF to form the Cuban Liberty Council, which became influential under the Bush administration. The more moderate CANF has been in closer contact with the Obama administration, but has appeared ambivalent to Obama's rapprochement towards Havana.<sup>45</sup>

The Cuban state has shown no inclination to create, even if only discursively, a symbolic territorial entity for the diaspora. While some emigrated Cubans in the US have coined the term of a "Cuba Norte" referring to the Miami area (leaving the island as "Cuba Sur"), for the Cuban government, the notion of national sovereignty prohibits any such territorial attributions, even if only discursive.

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41 Nación y Emigración, "Cubanos en el mundo."

42 Cubaminrex, "Comenzó El I encuentro nacional de cubanos residentes en los Estados Unidos"; Jacomino, "Cubanos Residentes en EE.UU. Sostienen Reunión Nacional en Washington."

43 Ponce, "Acta resumen y principales acuerdos del IX encuentro de cubanos residentes en Europa."

44 FACRE, "Un centenar de personas brindó en la Puerta del Sol de Madrid por la libertad de los cinco, dando fin a una campaña de 16 años."

45 Cuba Study Group, "Exile Organizations"; Cuban American National Foundation, "About Us"; Achenbach, "For Some Cuban Exiles, the Old Toast 'Next Year in Cuba!' Is Suddenly More Plausible."

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# DOMINICAN REPUBLIC

In 2013, around 1.2 million Dominicans, which represents 10 percent of the total population, were living abroad. The Dominican diaspora is concentrated mainly in the United States (with more than 950,000 Dominican nationals), but also present in other world regions, such as Europe (mostly in Italy and Spain) and in Latin America and the Caribbean (mainly in Puerto Rico and Venezuela).<sup>1</sup>

The Dominican Republic has developed a set of emigrant policies that touch upon the majority of dimensions analyzed in this book. It has made advances in the integration of emigrants back home by recognizing dual nationality and extending electoral rights to non-residents, including candidacy rights for the lower house. However, this recognition of electoral rights to the diaspora is not accompanied by specific regulation of political competition abroad. The Dominican Republic has also adopted, although not fully implemented, a multilevel structure of consultation of emigrant issues that allows non-residents to participate in decision-making processes at home and abroad. The executive structure of the country also has a unit dedicated to emigrant affairs and an extensive consular network.

The Dominican Republic, however, lags behind in comparison to other countries in the realm of economic policies and lacks a full-fledged strategy including remittances, investment schemes, and return programs. It also lacks exit and transit policies to promote safe transit to other countries.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The Dominican Constitution of 2010 differentiates between citizenship and nationality. The Constitution, which provides the framework of the nationality regulation, includes in its definition of Dominican nationals, a mention of direct descendants of Dominican nationals living abroad and persons born abroad to a Dominican parent that declare their desire to acquire Dominican nationality after turning 18 years old.<sup>2</sup>

The Constitution also recognizes dual nationality and explicitly states that the acquisition of another nationality does not imply the loss of Dominican nationality.<sup>3</sup>

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1 UN population division, "International Migrant Stock: By Destination and Origin."

2 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 19.

3 Ibid. Art. 20.



All Dominican nationals 18 years and older, and those who have been legally married, regardless of age, are considered citizens.<sup>4</sup> The status of citizen grants political and social rights, such as being eligible for public office.<sup>5</sup>

The Constitution states that “the direct descendants of Dominican nationals residing abroad” are Dominican nationals.<sup>6</sup> No limitation on this condition is stipulated. Thereby, it is understood that there is no limitation for acquiring Dominican nationality by *jus sanguinis*.

Dominican nationals that adopt another nationality, by naturalization or by birth, may run for the Presidency or Vice-presidency only if they have renounced the other nationality 10 years prior to the election and have been living in the Dominican Republic for 10 years before taking office. However, they could assume other public posts (e.g. in the legislature, in the diplomatic service).<sup>7</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

As described in the previous section, the Dominican Constitution makes explicit that the acquisition of another nationality does not imply the loss of Dominican nationality.<sup>8</sup> Permanent residence abroad does not cause loss of citizenship. However, residence abroad for over 10 years is enough to lose nationality for naturalized Dominicans (not Dominicans by birth), which implies the loss of citizenship as well.<sup>9</sup>

Citizenship status is lost in case of treason, espionage, conspiring against the state, as well as for assisting or participating in attacks against the interests of the Dominican Republic.<sup>10</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

No difference has been found in the rights and duties of citizens residing temporarily or permanently abroad.

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Nonresidents are enfranchised for presidential elections through a law passed in 1997.<sup>11</sup> Although the Constitution of 2010 does not explicitly grant emigrants the right to vote in presidential elections, it is understood that the electoral law of 1997 still applies.

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4 Ibid. Art. 21.

5 Ibid. Art. 22-23.

6 Ibid. Art. 18.

7 Ibid. Art. 20.

8 Ibid. Art. 20.

9 El Congreso Nacional, *Ley No. 1683 sobre Naturalización*, Art. 12.

10 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 22-23.

11 El Congreso Nacional, *Ley Electoral*, No. 275-97, Art. 82.

The National Congress is composed of two houses: the lower Chamber of Deputies and the upper Senate.<sup>12</sup> The Constitution of 2010 does not grant nonresident Dominicans the right to vote for the Senate, but it does recognize this right for elections to the Chamber of Deputies.<sup>13</sup>

Elections abroad are only held in those cities where the electoral authorities decide they can implement the electoral process.

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

In regards to presidential elections, non-resident Dominican nationals are subjected to the universally applied restrictions. No differentiation is made in the Constitution or Electoral Law between residents and non-residents.<sup>14</sup>

The Constitution allows non-residents to run for the Senate if they reestablish residence in the country. However, candidates must be natives of the region they seek to represent (or have lived there for at least five consecutive years) and reside there during their mandate,<sup>15</sup> and there is no concomitant active voting right for non-residents to elect Senators. This suggests that candidacy from abroad is not possible.

Emigrants can run for posts in the Chamber of Deputies. Specifically, they can run for the seven seats reserved for Dominican citizens living abroad.<sup>16</sup> One must be a Dominican citizen, be at least 25 years of age, be in possession of a national identification card, be registered to vote, and live in the district they would like to represent.<sup>17</sup>

The external voting law also states that candidates to the special seats must be endorsed by registered Dominican political parties.<sup>18</sup>

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

The only voting method available for Dominican migrants is voting in embassies or consulates. There is the option of voting also in poll stations created ad hoc and distributed across the external districts.<sup>19</sup>

#### REGISTRATION FOR THE FRANCHISE

In order to be able to vote, nonresidents must register in the electoral roll for Dominicans living abroad.<sup>20</sup> Once they are registered (if there is no change in

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12 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 76.

13 El Congreso Nacional, *Ley Electoral*, No. 275-97, Art. 81.

14 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 123.

15 Ibid. Art. 79.

16 Ibid. Art. 81.

17 El Congreso Nacional, *Ley Número 136-11, que regula el voto de los dominicanos y dominicanas en el exterior*, Art. 8.

18 Ibid. Art. 7.

19 JCE, "Junta Central Electoral de La República Dominicana."

20 El Congreso Nacional, *Ley Número 136-11 que regula el voto de los dominicanos y domi-*

the place of residence), registration is automatic for successive elections. In addition, members of the electoral roll for emigrants are removed from the internal electoral roll.<sup>21</sup>

### MODE OF REPRESENTATION

The mode of representation for legislative elections (lower house) is specially subdivided. The Constitution of 2010 mandates that seven Congressional seats must be elected by Dominicans living abroad.<sup>22</sup> In addition, Law 136-11 creates three external districts in which the special representatives for Dominican migrants are to be elected.<sup>23</sup> These districts are defined by the Junta Central Electoral (JCE) by taking into account the number of Dominican nationals living in the region, as well as their distribution.<sup>24</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The structure of the consultation of emigrant issues in the Dominican Republic is based on a two-level system. The lower level consists of the Presidential Consultative Councils for Dominicans Abroad (*Consejos Consultivos de la Presidencia de los Dominicanos en el Exterior*, CCPDE). The higher level is represented by the National Council for Dominican Communities Abroad (*Consejo Nacional para las Comunidades dominicanas en el Exterior*, CONDEX).

Composed of prominent Dominicans abroad, the CCPDE are consultative bodies in the cities or regions where there is a high concentration of Dominican emigrants.<sup>25</sup> The main objective of the CCPDEs is to promote closer relations between its members and the Dominican state.<sup>26</sup> The CCPDEs are composed of three main branches: the general assembly, the executive council, and the executive committees.<sup>27</sup> The General Assembly is composed of all interested Dominican migrants that reside in the city of the CCPDE.<sup>28</sup>

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*nicanas en el exterior*, Art. 11.

21 Ibid. Art. 12.

22 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 81.

23 El Congreso Nacional, *Ley Número 136-11 que regula el voto de los dominicanos y dominicanas en el exterior*, Art. 9.

24 Ibid. Art. 10.

25 El Congreso Nacional, *Ley No. 1-08. Ley Orgánica del Consejo Nacional para las Comunidades Dominicanas en el Exterior*, (CONDEX), Art. 3.

26 Presidente de la República Dominicana, *Decreto No. 674-08*, Art. 30.

27 Ibid. Art. 33.

28 Ibid. Art. 40.

Currently there are 20 CCDPE located in the countries and cities where the Dominican emigrant community is prominent.<sup>29</sup> The development of the CCDPE is still ongoing; therefore, not all the allocations included in the legal framework have been implemented. The presidents and the executive committee of the CCPDE are selected by the Dominican government according to different criteria, such as the involvement in local emigrant associations. CCPDE presidents are called once per year to the Dominican Republic, but their presence in the CONDEX assembly is rather symbolic.

The CCPDE organize different activities depending on the budget allocated by the central government. In the case of the German CCPDE, for example, the consultative body offered the program *Mi patria dominicana* aiming to teach elements of Dominican culture and history to Dominican children. Therefore, the CCPDE have a mixed function; transmitting the needs and concerns of Dominicans abroad to the government and, at the same time, acting as a sort of emigrant association implementing programs and activities.<sup>30</sup>

The CONDEX is chaired by the President of the republic.<sup>31</sup> In case of absence of the President of the Republic, the assembly must be chaired by the Executive Vice-President.<sup>32</sup> The consultation at this level is structural since the CONDEX must be called to at least one general assembly every year. However, although there is a legal minimum, the assembly can be called together ad hoc if necessary.

At the national level, as mentioned above, the consultative body is composed of the CONDEX, the presidents of the CCPDEs, and invited institutions and individuals.<sup>33</sup>

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## ADMINISTRATION

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### CONSULATES

At the end of 2014, the Dominican Republic had 65 consulates (including consular sections in embassies) and 57 honorary consulates around the world.<sup>34</sup> However, the countries with the highest density of consulates are the United States, Italy, and Spain.<sup>35</sup>

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29 Condex, “¿Qué Son Los CCPDE?”

30 John Castro (President of the CCPDE in Germany) interviewed on March 2, 2015.

31 El Congreso Nacional, *Ley No. 1-08 - Ley Orgánica del Consejo Nacional para las Comunidades Dominicanas en el Exterior*, (CONDEX), Art. 7.

32 Presidente de la República Dominicana, *Decreto No. 674-08*, 647-08, Art. 14.

33 El Congreso Nacional, *Ley No. 1-08 - Ley Orgánica del Consejo Nacional para las Comunidades Dominicanas en el Exterior* (CONDEX), Art. 8.

34 Information provided in the web of the Ministry of External Relations. It is possible, that the information is not up-to-date and, therefore, the Consular network at the end of 2014 is slightly more extensive.

35 MIREX, “Portal de Servicios Consulares de la República Dominicana.”

Some consular delegations have implemented mobile consulates. For example, the consulate in New York provides services also in the US States of Connecticut, New Jersey, and Pennsylvania.<sup>36</sup>

The catalogue of services offered by the Dominican consulates is relatively extensive. Besides classical consular services (e.g. certifications, official documents), consulates offer legal consultancy and social assistance.<sup>37</sup>

### HOME COUNTRY ADMINISTRATION

The Dominican Republic has a Vice-Ministry of Consular and Migrant Affairs. This office depends directly on the Ministry of Foreign Affairs, being thereby placed on the second level of the Dominican public administration. Some of its more notable functions include monitoring and evaluating the work of consular missions, unifying policies and criteria regarding actions in consular matters, and setting protection policies for Dominican citizens abroad.<sup>38</sup>

The Vice-Ministry for the Supervision of Embassies and Consulates is in charge of monitoring diplomatic and consular missions in order to improve the quality of services provided.<sup>39</sup>

There is also a “Technical Office” to support CONDEX (see the section on consultative bodies for more information) and plan, coordinate, and implement initiatives to improve the quality of life of Dominicans abroad.<sup>40</sup> The technical office is led by the Executive Vice-President of the CONDEX and must be composed of experts on migration.<sup>41</sup>

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## ECONOMIC POLICIES

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### RETURN POLICIES

Dominican authorities allow the recognition of elementary and secondary diplomas, university degrees, as well as partially completed studies.

The process for recognizing elementary and secondary diplomas is relatively straightforward. However, the process for university degrees is more complicated, involving several institutions (such as the *Universidad Autónoma de Santo Domingo*, and the Secretariat for Education, Science, and Technology). In all cases, there is a given timeframe for the recognition.<sup>42</sup>

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36 Consulado General de la República Dominicana en Nueva York, “Consulados Móviles.”

37 MIREX, “Portal de servicios consulares de la República Dominicana.”

38 MIREX, “Viceministerio para Asuntos Consulares y Migratorios.”

39 MIREX, “Viceministerio Supervisor de Embajadas y Consulados.”

40 El Congreso Nacional, *Ley No. 1-08, Ley Orgánica del Consejo Nacional para las Comunidades Dominicanas en el Exterior*, (CONDEX), Art. 10.

41 Ibid. Art. 12.

42 CONDEX, “Guía Práctica Dominican@s Presentes,” 49.

No comprehensive programs to foster the return of Dominican migrants have been found. However, there are a couple of tax exemptions on returnees' vehicles<sup>43</sup> and personal and domestic goods.<sup>44</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is voluntary in the Dominican Republic, thus, emigrants are not obligated to serve.<sup>45</sup> Furthermore, emigrants do not have to pay taxes in the Dominican Republic.

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## CULTURAL POLICIES

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While there is not a centralized program to promote Dominican culture among emigrants, some consulates have implemented measures to do so. For instance, the consulate in New York undertakes cultural promotion in two ways; the promotion of Dominican culture in the United States and among second- and third-generation Dominicans in the USA.<sup>46</sup>

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## SOCIAL POLICIES

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Unemployment benefits do not exist in the Dominican Republic. Nevertheless, there is compensation in case of termination of an employment contract. This compensation is received in a one-time payment and depends on the time spent with the company.<sup>47</sup>

The retirement policy in the Dominican Republic establishes that Dominicans abroad have the right to benefit from the social security system, specifically from pension schemes; however, healthcare is restricted to residents only.<sup>48</sup>

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<sup>43</sup> El Congreso Nacional, *Ley No. 168-67*.

<sup>44</sup> El Congreso Nacional, *Ley No. 146-00 de Reforma Arancelaria*, Art. 6.

<sup>45</sup> Secretaría de Estado de las Fuerzas Armadas, *Decreto 1081-2001*; El Congreso Nacional, *Ley No. 139-13 de las Fuerzas Armadas de la República Dominicana*.

<sup>46</sup> Consulado General de la República Dominicana en Nueva York, "Promoción Cultural."

<sup>47</sup> Secretaría de Estado de Trabajo, *Ley N° 1692, por la que se promulga el Código del Trabajo*, Art. 95.

<sup>48</sup> El Congreso Nacional, *Ley N° 87-01, que crea el Sistema Dominicano de Seguridad Social*, Art. 5.

Nevertheless, some Dominican consulates, such as the one located in New York, provide healthcare services through the so-called *Ventanilla de Salud*. The initiative coordinates several hospitals and more than 300 doctors that offer medical attention at low prices. The program is not conceived as health insurance, but as a way to promote health among Dominicans by providing information on health-related topics such as prevention of diseases and by offering support to access the healthcare system (and benefits for low-income citizens).<sup>49</sup>

No full-fledged educational policy for Dominicans abroad was found. However, there are decentralized educational activities organized by consulates. The initiative *Quisqueya Aprende Contigo* run by the consulate in New York, implements a nation-wide plan developed by the Dominican government to eradicate illiteracy among Dominicans.<sup>50</sup> It includes free courses to obtain the elementary education diploma, study English, or to prepare for university.<sup>51</sup>

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### SYMBOLIC POLICIES

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The CONDEX organizes the annual *Dominican@ Presente* award to recognize the professional and personal success of Dominicans abroad. There are different categories (e.g. academics, arts, sciences, sports). Nominees must be Dominicans, resident abroad at least 15 years with a minimum of 10 years of excellent professional experience in their field. In addition, the CONDEX recognizes personal or professional success of Dominicans abroad for more than 20 years.<sup>52</sup> The awards are presented on December 20, the official national day of emigrants.<sup>53</sup>

Emigrants are mentioned in the Dominican Constitution several times, mainly in relation to suffrage and mandates that public powers pursue special policies to preserve and strengthen links between the Dominican nation and the diaspora.<sup>54</sup>

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49 Consulado Dominicano en Nueva York, “Ventanilla de salud.”

50 Dirección General de Programas Especiales, “Quisqueya aprende contigo.”

51 Consulado General de la República Dominicana en Nueva York, “Ventanilla de Educación.”

52 Presidente de la República Dominicana, *Decreto No. 674-08*, Arts. 79-86.

53 Ibid., Art. 86; El Congreso Nacional, *Ley No. 1-08, Ley Orgánica del Consejo Nacional para las Comunidades Dominicanas en el Exterior*, (CONDEX), Art. 4.

54 Asamblea Nacional de la República Dominicana, *Constitución Dominicana*, Art. 18.

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## ECUADOR

The Government of Ecuador estimates that 2 million Ecuadorian nationals live abroad.<sup>1</sup> The latest data available show a high concentration of Ecuadorian migrants in three countries:<sup>2</sup> Spain (being the destination chosen by around 45% of Ecuadorian migrants), United States (with around 30%) and Italy (7%).<sup>3</sup>

While emigration rates in Ecuador have constantly increased since the 1970s, 1999 saw an emigration boom: between 1.4 and 1.6 million Ecuadorians emigrated during the period 1999-2005. If, during the previous decades, Ecuadorians opted to move mainly to Canada, United States and Venezuela, from 1999 a shift towards destinations in Europe (mainly Spain and Italy) can be observed.<sup>4</sup> The causes of the emigration boom of the 1999 relate to different factors, such as the great political instability of the 1990s, the collapse of the Ecuadorian financial system (followed by the dollarization), and the rapidly increasing poverty and social exclusion rates.<sup>5</sup>

Since the end of the 2000s, there has been a deceleration of the number of Ecuadorians leaving their country due to two main reasons: First, in 2004, Ecuadorian nationals started needing a visa to travel to Europe due to a change in the Schengen regulations; and second, the lack of job opportunities as a result of the financial crisis that has affected Europe since 2008, especially in Southern European countries, including Italy and Spain.<sup>6</sup>

The evolution of Ecuadorian migration is reflected in changes in the country's emigrant policies. The lack of an emigration policy strategy from the 1970s began to be overcome in 2000, when the emigration flow intensified. For instance, in 2001, the government presented the first National Plan for Ecuadorian Migrants Abroad (*Plan Nacional de Migrantes Ecuatorianos en el Exterior*) that aimed at targeting the problems of Ecuadorian nationals living abroad.<sup>7</sup>

However, it was not until 2006 that Ecuador started building a more comprehensive migrant policy. During the electoral campaign of 2006, Ecuadorian migration featured highly on the political agenda and migrants were identified as victims of the complicated political, economic, and social situation of the previous years. With the Constitution of 2008, Ecuador granted

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1 The current Ecuadorian population is estimated at around 15.5 million.

2 The last official census conducted by Ecuador dates from 2010.

3 Herrera Mosquera, Moncayo, and Escobar, "Perfil Migratorio del Ecuador 2011."

4 Ibid.

5 Ramírez and Ramírez, *La estampida migratoria ecuatoriana. Crisis, redes transnacionales y repertorios de acción migratoria*.

6 Herrera Mosquera, Moncayo, and Escobar, "Perfil migratorio del Ecuador 2011"; FLACSO (Organization) Sede and UNFPA-Ecuador, *Ecuador*.

7 Herrera Mosquera, Moncayo, and Escobar, "Perfil migratorio del Ecuador 2011."

the emigrant population an important role in the political life of the country by, for instance, recognizing their right to participate in presidential and legislative elections, not only through voting, but also by electing their own representatives in the National Assembly.<sup>8</sup>

Ecuador has tried to incorporate its diaspora into the national political arena. However, other emigrant policy dimensions are still not fully developed. This is the case, for instance, of policies regarding the economic incorporation of emigrants into the home society or cultural policies that aim to promote Ecuadorian cultural traditions and values among the diaspora. In fact, Ecuador has not been able to pass the new migration bill needed to give coherence and cohesion to its migration policy. It is thus possible that major changes could be introduced in future years.<sup>9</sup>

The *Plan Nacional para el Buen Vivir 2013-2017* together with the *Agenda nacional para la movilidad humana 2013-2017* provide the current roadmap for Ecuadorian emigrant policies. Among their goals, is the protection and socioeconomic inclusion of Ecuadorian migrants by promoting a policy framework for human mobility, protecting Ecuadorian migrants or helping those migrants that want to return to the country.<sup>10</sup>

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Dual citizenship was recognized in Ecuador in August 1994 after a referendum that included ten yes/no questions about key aspects of the Ecuadorian political system, the seventh being about allowing maintaining Ecuadorian nationality when acquiring another nationality. The dual citizenship proposition passed with 52.49% of votes in favor (2,087,262) and 19.58% against (778,786). Subsequently, dual citizenship was introduced in the 1998 Ecuadorian Constitution.<sup>11</sup>

Currently, there is no legal obstacle for holding or acquiring another citizenship alongside the Ecuadorian.<sup>12</sup>

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8 Ibid.

9 Sánchez Bautista, "Policy and Institutional Frameworks - Country Report Ecuador. INTERACT Research Report 2014/24."

10 At some points, information about past policies or changes in the status of emigrants is also included in order to contextualize important developments in regards emigrant policies in Ecuador.

11 Asamblea Nacional Constituyente, *Constitución de la República de Ecuador 1998*, Art. 10 and 11.

12 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 6 and 8.

There are also no specific conditions or restrictions for the exercise of dual citizenship. There is a specific regulation for the entrance and departure of Ecuadorians holding dual citizenship that aims at controlling potential illicit uses of dual citizenship status.<sup>13</sup> However, this is not considered a restriction on the exercise of dual citizenship.

Ecuador's 2008 Constitution establishes that all persons born in a foreign country to Ecuadorian parents, as well as their descendants to the third degree of consanguinity, are Ecuadorian by birth.<sup>14</sup> Thus, Ecuadorian citizenship can be passed down until the fourth generation of emigrants.

### LOSS OF CITIZENSHIP/NATIONALITY

Ecuador does not regulate the loss of citizenship through permanent residence abroad or by acquisition of a foreign nationality.<sup>15</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

There are no significant differences between the legal status of citizenship of individuals located temporarily or permanently outside Ecuador and individuals residing in the country. The only difference is that Ecuadorians residing in the country are obligated to vote in national elections and Ecuadorians residing abroad are not, although they are enfranchised (see next section).

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

The Ecuadorian Constitution of 2008 grants voting rights to Ecuadorians abroad for national presidential and legislative elections.<sup>16</sup>

The electoral code, approved in 2009, establishes that the vote is facultative for non-residents and compulsory for Ecuadorians residing in the country.<sup>17</sup>

Although the right to vote of non-residents was introduced for the first time in the Constitution of 1998 and developed by National Law number 81 of 2002, which established that Ecuadorians abroad could vote in person in consulates and with prior registration, the first time that non-resident Ecuadorians were able to vote in an election was in the elections held on October 15, 2006.<sup>18</sup>

To date, no regional elections have been held in Ecuador. Although the

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13 Correa Delgado, *Decreto Número 132 - Ingreso Ecuatorianos de Doble Nacionalidad*.

14 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 7.2

15 Ibid. Art. 6.

16 Ibid. Art. 63.

17 Asamblea Nacional, *Ley orgánica electoral y de organizaciones políticas de la República del Ecuador*, Art. 11.2.

18 Ramírez and Boccagni, *Voto a la distancia*, 10.

2008 Constitution opens the possibility for regional political and administrative decentralization and prescribes an eight-year period to create the sub-state units, this process is still not finished. Therefore, no regional elections have been held. Moreover, neither the Constitution, nor the Electoral Law mentions the possibility of emigrant participation in potential regional elections for emigrants.<sup>19</sup>

Finally, it is worth mentioning that the Constitution of 2008 also grants residents abroad the possibility to call for a referendum, as long as they muster the support of 5 percent of their district.<sup>20</sup>

### **CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS**

The Constitution grants emigrants the right to be elected President, Vice-president, national representatives, and representatives of the external districts in the National Parliament. The only restriction mentioned is in regard to members of the civil service abroad: they may not represent Ecuadorians abroad, unless they renounce all their responsibilities at least six months before the election.<sup>21</sup>

Ecuadorians residing abroad do not have the right to be candidates in local mayoral or legislative elections.<sup>22</sup>

### **VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS**

For the elections held in 2013, the only external method available was voting in person in Ecuadorian embassies or consulates.<sup>23</sup> In-country voting was only possible if the person was not officially registered as an external voter and decided to travel to Ecuador to vote in the elections.

### **REGISTRATION FOR FRANCHISE**

Registration for voting abroad is considered active and permanent. Therefore, Ecuadorians living abroad should fill out a registration form and send it to the nearest consulate or embassy in order to be able to vote. Once the registration is completed and providing the personal situation does not change, registration for subsequent elections is automatic.<sup>24</sup>

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19 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 63.

20 Ibid. Art. 104.

21 Ibid. Art. 113.5; Asamblea Nacional, *Ley orgánica electoral y de organizaciones políticas de la República del Ecuador*, Art. 96.5.

22 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 63.

23 Registro Oficial del Ecuador, "Segundo Suplemento Al Registro Oficial No. 827." PCE-CNE-2-24-10-2012.

24 Asamblea Nacional, *Ley orgánica electoral y de organizaciones políticas de la República del Ecuador*, Art. 78.

### MODE OF REPRESENTATION

The mode of representation for Ecuadorians living abroad is mixed. On the one hand, for election of special representatives, non-resident votes are counted separately from in-country votes and there are reserved seats divided into specific regions. Currently, there are six special representatives, elected in three regions: United States and Canada; Europe, Asia, and Oceania; and Latin America, the Caribbean, and Africa. For presidential elections, the votes are counted together with those cast in-country by residents. Regarding the rest of the elections (national executive, national parliamentary and for members of the Andean Parliament), non-resident votes are also counted separately, but then combined with the votes cast in the district with which the non-resident voter has a biographical connection.

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### REGULATION OF POLITICAL COMPETITION

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#### PARTY OFFICES IN HOST COUNTRIES

There is no legal limitation regarding the opening of party offices abroad. In fact, there are offices in countries with a high number of emigrants, such as Spain and the United States. Parties receive public funding to finance their activities and could potentially invest it in permanent offices abroad.

#### POLITICAL CAMPAIGNS

There are different regulations that apply to the political campaigns conducted by Ecuadorian parties abroad. The regulations are divided in two main categories: The current Electoral Law<sup>25</sup> and several administrative regulations enacted by the National Electoral Council (CNE by its Spanish initials).

The Electoral Law defines and regulates the public funding assigned for political campaigns abroad<sup>26</sup> and regulates political parties' bank accounts abroad, establishing that these are only permitted in the case of external districts.<sup>27</sup>

The CNE is responsible for managing the electoral process and, thus, it enacts vast regulation regarding all dimensions of the electoral campaigns. Campaigns abroad must be conducted under the same conditions as in-country campaigns and that the political organizations abroad may not directly advertise in media.<sup>28</sup>

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25 Ibid.

26 Ibid. Art. 209.

27 Ibid. Art. 225.

28 Consejo Nacional Electoral, *Compilación de la normativa interna del CNE sobre procesos electorales*. Reglamento de Promoción Electoral, Art. 31.

## MEMBERSHIP

The Electoral Law establishes that all citizens, including non-residents, with the right to vote can belong to a political party as long as they meet the requirements established by the party.<sup>29</sup> Emigrants can also occupy relevant official seats within the parties. For example, Ximena Peña, member of the *Alianza PAIS* movement and special representative for the United States and Canada district, is also a member of the Federal Executive of the party.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT THE NATIONAL LEVEL

In 2014, the Ecuadorian National Assembly created the “National Councils for Equality (*Consejos Nacionales para la Igualdad*). The councils aim to promote equal treatment of certain groups of citizens, one of them being Ecuadorian emigrants. The councils, although not exclusively, have consultative functions. The regulation stipulates that they must be composed of 10 representatives from both civil society and the state. The members that represent civil society are elected in a public competition organized by the *Consejo de Participación Ciudadana y Control Social*. Members are elected for a period of 4 years and can be reelected once. The council is chaired by a person appointed directly by the President of the Republic. At the time of writing this chapter, the advisory board has not yet been called together by the Ecuadorian government.

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## ADMINISTRATION

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### CONSULATES

Currently, Ecuador has 81 consulates and 114 honorary consulates in 80 countries.<sup>30</sup> The Ecuadorian government has made it a priority to develop a new “human mobility” policy. Within this approach, the government also aims at developing a new consular policy, based on a new philosophy, “citizen diplomacy,” focused on the protection and defense of the rights of Ecuadorians living abroad (for example, by providing assistance to Ecuadorians living in Spain affected by the real estate crisis of 2008).<sup>31</sup>

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29 Asamblea Nacional, *Ley orgánica electoral y de organizaciones políticas de la República del Ecuador*, Art. 334.

30 Ministerio de Relaciones Exteriores y Movilidad Humana, “El Modelo de Gestión Estratégica de la Movilidad Humana.”

31 Ministerio de Relaciones Exteriores y Movilidad Humana, “La Diplomacia Ciudadana al servicio de las personas migrantes.”

Moreover, the government has developed an online platform, through which all Ecuadorians abroad can contact consular services directly, receive counseling, and perform different bureaucratic transactions.<sup>32</sup> Some consular missions, such as the consulate in Madrid, also operate mobile consulates<sup>33</sup> and have extended their office hours to Saturday, in order to meet the demands and needs of Ecuadorians abroad.<sup>34</sup>

Finally, the prospective “Human Mobility Law,” still in the first stage of its development, would include a chapter dedicated to the improvement of diplomatic and consular protection.<sup>35</sup>

The *Servicio 4x4* program allows Ecuadorian migrants to send packages to Ecuador without paying taxes. To benefit from this exception, it is necessary to be registered at a consulate.<sup>36</sup>

### HOME COUNTRY ADMINISTRATION

In 2013, the administrative structure dedicated to migrant issues changed: The National Migrant Office (*Secretaría Nacional del Migrante, SENAMI*) became the Vice-Ministry of Human Mobility under the Ministry of External Relations, Commerce, and Human Mobility.<sup>37</sup> In part, this change is explained by the perception of the *SENAMI* as a fragile institution that did not possess the necessary budget or leadership to meet the expectations of Ecuadorian migrants and their families.<sup>38</sup>

The Vice-Ministry of Human Mobility is an executive unit that has as its main mission the planning, management, and evaluation of human mobility policy in regards to issues such as emigration, immigration, transit, and return. Moreover, the Vice-Ministry aims to protect and promote the rights of all Ecuadorians abroad and immigrants in Ecuador.<sup>39</sup>

The organizational structure of the new Vice-Ministry is in development and at the moment of writing this report; currently, it has three units:

- Undersecretariat of Migratory and Consular Services: Responsible for documentation and consular services for Ecuadorians abroad and foreigners in the country.
- Undersecretariat for the Ecuadorian Migrant Community: Drafts and implements policies to promote and protect the rights of Ecu-

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32 <http://www.consuladovirtual.gob.ec/>

33 Consulado General del Ecuador en Madrid, “Consulados Móviles.”

34 Consulado General del Ecuador en New Jersey - Pennsylvania, “Horarios.”

35 Ibid. 16.

36 Ministerio de Relaciones Exteriores y Movilidad Humana, “Servicio 4x4.”

37 Correa Delgado, *Decreto Ejecutivo Número 20*.

38 Sánchez Bautista, “Policy and Institutional Frameworks - Country Report Ecuador. INTERACT Research Report 2014/24,” 24.

39 Ibid. 16.



dorians abroad and those returning to the country. Also manages the national and international migratory policy.

- Undersecretariat for Immigrant Services: Responsible for the integration and inclusion of the immigrant community in Ecuador.<sup>40</sup>

Since 2008, in cities with a high number of Ecuadorian migrants, the government has maintained *Casas Ecuatorianas* (Ecuadorian Houses),<sup>41</sup> which serve as an “antenna” of the Vice-Ministry of Human Mobility. The activities carried out in the *Casas Ecuatorianas* differ across countries and are the result of the work between the main actors of the Ecuadorian diaspora and the Ecuadorian government.<sup>42</sup> For example, the *Casa Ecuatoriana* in New York runs the *Aprendiendo de mi Ecuador* program, which aims to teach Ecuadorian children the Spanish language and Ecuadorian traditions.<sup>43</sup>

Finally, it is worth mentioning that the Constitution of 2008 mandates that the ombudsman’s office must staff delegates in every Ecuadorian province, as well as abroad.<sup>44</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The current Ecuadorian government does not consider remittances a source of funding for in-country development. For this reason, no economic programs designed to increase remittances or attract investment by emigrants have been found.

The Brasilia Declaration on South American Citizenship “*Declaración de Brasilia rumbo a la ciudadanía sudamericana*”, signed in 2011 by several South American countries, including Ecuador, recognizes the positive effects of emigrants and points out that remittances are the result of personal savings and may not be considered contributions to development.<sup>45</sup>

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40 Ibid. 16.

41 In 2011; in Caracas, London, Madrid, Milan, and New York City.

42 Herrera, “La construcción de la política de emigración del Estado ecuatoriano: el caso de las casas ecuatorianas en el exterior.”; Ramírez Gallegos, *La política migratoria en Ecuador*.

43 *Programa Aprendiendo de Mi Ecuador - Ceremonia de Clausura - Junio/28/2014*.

44 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art, 214.

45 Red Internacional de Migración y Desarrollo, “Declaración de Brasilia Rumbo a la Ciudadanía Sudamericana.”

## INVESTMENT

The Ecuadorian Constitution of 2008 established that the state will promote and protect savings as a source of productive investment in the country and will generate incentives for the return of savings and property of returning emigrants to encourage such investment.<sup>46</sup>

The former *SENAMI* developed the *Fondo Consursable El Cucayo* program, which aimed to support Ecuadorian migrants and returnees seeking to start a business in Ecuador by offering backing in terms of funding, training, or technical advice.<sup>47</sup> The program had been suspended by the time of writing this report.<sup>48</sup>

## BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Ecuador has a web-based network of scholars and students living abroad. The aim of this network is to connect Ecuadorians working in similar fields around the world and to provide them information about the programs, plans, and projects developed by the government.<sup>49</sup>

Furthermore, the Ecuadorian government has created the *Prometeo* project to strengthen research and knowledge circulation in specialized topics by means of the creation of a network linking foreign researchers and Ecuadorians living abroad. The program is intended for universities, polytechnic schools, public research institutes, and other public institutions that may require assistance in the development of research projects. The program functions by inviting experts residing abroad to participate in in-country research projects for a period that can last between two and twelve months.<sup>50</sup>

In addition to the *Prometeo* project, the Ecuadorian government has a return plan for teachers and health professionals. The plan for teachers aims at recruiting Ecuadorian teachers living abroad that wish to move back to Ecuador and enter the Ecuadorian school system.<sup>51</sup> The government has developed the parallel *Ecuador saludable, voy por ti* plan for Ecuadorian health professionals living abroad that wish to enter in the Ecuadorian National Health System.<sup>52</sup>

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46 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 338.

47 Secretaría nacional del Migrante, “Portal del Migrante Ecuatoriano - SENAMI - Fondo Consursable ‘El Cucayo.’”

48 Sánchez Bautista, “Policy and Institutional Frameworks - Country Report Ecuador. INTERACT Research Report 2014/24,” 14.

49 Secretaría Nacional de Educación Superior, Ciencia, Tecnología e Innovación, “Red de Becarios.”

50 Secretaría Nacional de Educación Superior, Ciencia, Tecnología e Innovación, “Programa Prometeo.”

51 Ministerio de educación, “Plan Retorno”; Ministerio de Relaciones Exteriores y Movilidad Humana, “Ecuador lanza en España un plan de retorno para docentes ecuatorianos radicados en España.”

52 Dirección Nacional de Talento Humano, “Plan Ecuador saludable, vuelvo por ti.”

## RETURN POLICIES

Ecuador has regulated the recognition of academic and professional qualifications acquired abroad. There is a specific regulation for the recognition of degrees related to health sciences<sup>53</sup> and a general procedure for other degrees. The general procedure establishes four different paths for recognition:

- Automatic recognition for degrees obtained in foreign institutions already certified by the Ministry of Education;
- Recognition of degrees obtained in countries with which Ecuador maintains an international agreement;
- Recognition of degree with a committee of experts and;
- Recognition through an academic institution.<sup>54</sup>

For all cases, there is no specific timeframe for recognition of academic and professional qualifications.

The above-mentioned *Ecuador saludable, vuelvo por ti* campaign is the best example of Ecuador conducting a communication campaign to persuade its citizens abroad to return. This campaign is composed of informative brochures, promotional videos and colloquia in embassies and consulates.<sup>55</sup>

The program *Volver a casa*, implemented by the National Customs Service, aims at facilitating the return of Ecuadorians either by easing the transport of their personal belongings or through housing benefits. This program is often combined with other campaigns, such as *Ecuador saludable, vuelvo por ti*.

The Ministry of Education manages a program to facilitate the incorporation of returned Ecuadorian children into the scholar system. The program consists primarily of an expedited recognition of studies undertaken abroad. For children that return from a member country of the *Convenio Andrés Bello* the only documents needed are the academic transcripts and identification.<sup>56</sup> For children returning from other countries, an official translation of the transcripts is also necessary.<sup>57</sup>

Furthermore, Ecuador offers free courses on professional skills to Ecuadorian returnees (although emigrants abroad can also take part in some courses). These courses aim at training returnees to enter the labor market and fostering entrepreneurship.<sup>58</sup>

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53 SENESCYT, *Acuerdo 2012-060*.

54 Asamblea Nacional, *Ley Orgánica de Educación Superior*; SENESCYT, *Reglamento para el reconocimiento, homologación y revalidación de títulos expedidos en el exterior*.

55 Dirección Nacional de Talento Humano, “Plan Ecuador saludable, vuelvo por ti.”

56 Bolivia, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Mexico, Panama, Paraguay, Peru, Spain, and Venezuela.

57 Ministerio de Relaciones Exteriores y Movilidad Humana, “Guía de Servicios Institucionales.”

58 Ibid.

In addition, the Ministry of Urban Development and Housing offers Ecuadorian emigrants or their families a voucher to assist with the construction, renovation, or purchase a house in Ecuador. There are some conditions to access to this voucher, such as having a certain amount of previous savings and not already owning a house in Ecuador.<sup>59</sup>

Finally, Ecuador also operates a program to support the return of migrants in precarious situations<sup>60</sup> and the *Plan Tierras* program, promoted by the Ministry of Agriculture, to offer land in Ecuador to emigrants in Spain with agricultural experience and knowledge.<sup>61</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is voluntary for all Ecuadorians, therefore, military service is also voluntary for Ecuadorians living abroad.<sup>62</sup>

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## CULTURAL POLICIES

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The *Casas Ecuatorianas*, present in countries with a high number of Ecuadorian nationals, were funded directly by the state and carry out, among other functions, cultural activities. Now, they are integrated into consular structures (See the “Administration” section).

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## EXIT AND TRANSIT POLICIES

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The Constitution of Ecuador recognizes the right to move freely within Ecuadorian territory, as well as the right to exit the country.<sup>63</sup>

The government of Ecuador, in collaboration with its embassy in Washington and consulate in New York City, has launched the *Dile no a la emigración riesgosa* campaign to discourage emigration that could endanger the life of

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59 Ibid.

60 Ministerio de Relaciones Exteriores y Movilidad Humana, “Protección a la Comunidad Migrante.”

61 Embajada del Ecuador en España, “Ecuador impulsa en España el Plan Tierras para facilitar el retorno productivo de sus ciudadanos”; Ministerio de Relaciones Exteriores y Movilidad Humana, “Canciller Ricardo Patiño evalúa Plan Tierras en España.”

62 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 161.

63 Ibid. Art. 66.14.

the emigrant due to the lack of resources or documents. The campaign is composed of videos, press releases, social media coverage, and colloquia organized in Ecuador and abroad.<sup>64</sup>

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### SOCIAL POLICIES

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All Ecuadorian employees must pay unemployment insurance while working. In case of losing their job, they receive compensation in a lump sum payment. Therefore, there are no monthly transfers. Ecuadorians living abroad can receive their unemployment payment before emigrating if they meet all the formal criteria, for example, having worked at least 24 months in Ecuador.<sup>65</sup>

Moreover, Ecuadorians residing abroad can voluntarily register in the Ecuadorian Social Security Institute in order to maintain pension rights, as well as healthcare in Ecuador.<sup>66</sup> The Constitution of 2008 guarantees voluntary registration for Social Security<sup>67</sup> and obliges the state to safeguard the labor rights of Ecuadorians abroad and to pursue cooperation with other countries.<sup>68</sup>

In addition, the *Casas Ecuatorianas* provide a program for health information on topics such as HIV, cancer, and childcare.<sup>69</sup>

The Vice-Ministry of Human Mobility offers vocational training in the United States. The courses are free and are designed for Ecuadorian migrants that have lived at least one year outside Ecuador.<sup>70</sup> Moreover, the *SENESCYT* (Ecuadorian administration in charge of higher education) offers scholarships for studying graduate programs abroad to which non-residents can also apply.<sup>71</sup>

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### SYMBOLIC POLICIES

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There are some campaigns and awards that recognize the efforts and contributions of Ecuadorians abroad. For example, former congresswoman Linda Machuca, the representative of Ecuadorians in the United States and Canada,

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64 Ministerio de Relaciones Exteriores y Movilidad Humana, “Dile No a la migración riesgosa.”

65 IEES, “Prestación del Seguro de Cesantía.”

66 Ibid. 35.

67 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*, Art. 374.

68 Ibid. Art. 329.

69 Casa Ecuatoriana New York, “Boletín de Prensa.”

70 Ministerio de Relaciones Exteriores y Movilidad Humana de Ecuador, “Formación y Capacitación.”

71 SENESCYT, “Becas en el exterior.”

organizes the *Reconocimiento a la Mujer Migrante ecuatoriana de la Asamblea Nacional* award.<sup>72</sup>

*Mi lindo Ecuador* is a campaign that encourages Ecuadorians residing abroad to promote Ecuador. The campaign is being developed by the Ministry of Tourism and includes promotional videos, social media accounts, and a photography competition, among other elements.<sup>73</sup>

From September 9 to 15, 2013, the National Assembly organized a conference on human mobility. The conference was attended by migrant associations, refugees and different social organizations related to migration issues.<sup>74</sup> The conference has not been held since 2013 and it seems to be a onetime event.

January 24 is the day of dual-citizenship<sup>75</sup> and July 21, 2013, was recognized as the day of the *Ecuatoriano Ausente*.<sup>76</sup>

The 2008 Constitution makes explicit reference to the Ecuadorian emigrant community.<sup>77</sup>

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72 Godoy, “Asamblea Nacional del Ecuador entregará ‘Reconocimiento Nacional a la Mujer Migrante.’”

73 Ministerio de Turismo de Ecuador, “Mi Lindo Ecuador.”

74 Asamblea Nacional, “Semana Por la Movilidad Humana.”

75 Ecuatorianos Residentes en el Exterior, “Anexo: Registro Oficial No. 113 Día de la Doble Nacionalidad.”

76 El Telégrafo, “Hoy se conmemora el Día del ecuatoriano ausente.”

77 Asamblea Constituyente, *La Constitución de la República de Ecuador de 2008*. Art. 40.

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# EL SALVADOR

Salvadoran authorities report that 2.8 million Salvadorans live abroad, with the largest emigrant community residing in the USA. This corresponds to roughly 40% of the national population. Remittances from Salvadoran migrants are a crucial source of capital for the country, equivalent to 18% of its GDP in 2009.<sup>1</sup>

In recognition of the scale of emigration in El Salvador and of emigrants' contribution to the national development and promotion of the Salvadoran culture beyond national boundaries,<sup>2</sup> national authorities have increasingly recognized emigrants' political and social rights and provided channels for them to maintain links with their homeland. The Special Law for the Protection and Development of Salvadoran Migrant Persons and their Families (*Ley Especial para la Protección y desarrollo de la persona migrante salvadoreña y su familia*) and the Special Law for the Exercise of the Vote from Abroad in Presidential Elections (*Ley Especial para el Ejercicio del Voto desde el Exterior en las Elecciones Presidenciales*) are clear examples of increasing interest of the Salvadoran state in its diaspora.

As a sign of the importance given to emigrant policies, El Salvador has assigned the rank of a vice-ministry (under the Ministry of Foreign Affairs) to the body in charge of emigrant policies and has promoted visits of Foreign Affairs authorities to migrants abroad. El Salvador, however, has not developed a full-fledged range of emigrant policies yet. Although El Salvador allows emigrants to participate in home elections and to hold other nationalities (dual nationality) and has a wide array of economic policies (from return to investment schemes), it has not adopted other policies, such as social protection of nationals abroad.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The Salvadoran Constitution fully recognizes the right of Salvadorans by birth to hold dual or multiple citizenship.<sup>3</sup> Nationals from countries that belonged to the former Federal Republic of Central America (1823-40)<sup>4</sup> residing in El Salvador may apply for Salvadoran citizenship without renouncing their original nationalities and will be considered Salvadorans by birth.<sup>5</sup>

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1 Ada Ábrego, "Viceministerio para los Salvadoreños en el Exterior."

2 La Asamblea Legislativa de la República de El Salvador, *Decreto No. 825, por el que se declara el 26 de noviembre "Día nacional de los salvadoreños en el exterior"*.

3 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 91.

4 The Republic was composed of present-day Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.

5 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 90.3.

Nationals from other countries are subject to international treaty regulation on dual citizenship and can also maintain their former citizenship(s), if the principle of reciprocity is respected.<sup>6</sup>

No degree of consanguinity applies for Salvadorans by birth who seek to hold dual or multiple citizenship.

#### LOSS OF CITIZENSHIP/NATIONALITY

No explicit distinction is made in the Constitution between citizenship and nationality, however the definition of these two categories in the law suggests that such a distinction exists:

- a) *Nationality* can be lost under certain circumstances. In this regard the Constitution distinguishes between Salvadorans by birth and naturalized Salvadorans: Salvadorans by birth cannot lose their nationality save for by express renunciation, which can be reversed.<sup>7</sup> Naturalized Salvadorans can lose their nationality in two ways: by living in their country of origin for more than two consecutive years or abroad generally for more than five consecutive years without legal permission. They may also be deprived of nationality through an executive order, in which case it cannot be regained.<sup>8</sup>
- b) *Citizenship* can be suspended in cases of incarceration, legal injunction, mental disorder, or for refusing to serve in an elected office.<sup>9</sup> Citizenship rights can be lost in cases of corruption, criminal conviction, buying or selling votes, electoral fraud, or by officials interfering with the free exercise of suffrage.<sup>10</sup> Not, however, by residence abroad or the acquisition of further nationalities.

#### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

No differences are made in the Constitution between external and resident citizens regarding their political rights and duties.<sup>11</sup> However, the right to popular consultation on the reformation of the Federal Republic of Central America, mentioned in the Constitution,<sup>12</sup> is still not granted for Salvadoran emigrants, who can only vote in presidential and vice-presidential elections.<sup>13</sup>

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6 Ibid. Art. 93.

7 Ibid. Art. 91.

8 Ibid. Art. 94.

9 Ibid. Art. 74.

10 Ibid. Art. 75.

11 Ibid. Art. 73.

12 Ibid. Art. 73, in relation to Art. 89.

13 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para el ejercicio del voto desde el exterior*.

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Since 2014, all non-resident citizens legally residing abroad can exercise the right of suffrage for presidential elections in El Salvador, but not for the legislative assembly.<sup>14</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Electoral Code makes no explicit reference to the candidacy rights of non-resident citizens. Candidacy for the national executive or legislative branches is only limited to Salvadorans by birth.<sup>15</sup>

For local mayoral and municipal council elections, candidates are required to prove origin or residence for at least a year prior to the elections in the district they are seeking to represent.<sup>16</sup> The same applies to local legislative elections, with the residence period extended to two years.<sup>17</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Postal voting is the only method available to non-resident citizens in national elections.<sup>18</sup>

### REGISTRATION FOR FRANCHISE

Different registration methods exist for citizens in El Salvador for residents and for non-resident citizens. Registration is automatic for residents, who need only present their identification card at their local polling station.<sup>19</sup> Emigrants, on the other hand, must register no later than sixty days prior to the elections by way of a form submitted to the Supreme Electoral Court.<sup>20</sup>

The state encouraged the registration and participation of emigrant voters in the presidential elections of 2014 with a general campaign abroad, carried out through the diplomatic network and online.<sup>21</sup>

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14 Ibid. Art. 1.

15 La Asamblea Legislativa de la República de El Salvador, *Código Electoral*, Art. 151 and 126.

16 Ibid. Art. 164; La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 202.

17 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 201.

18 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para el ejercicio del voto desde el exterior*, Art. 4.

19 La Asamblea Legislativa de la República de El Salvador, *Código Electoral*, Art. 9.

20 La Asamblea Legislativa de la República de El Salvador, *Ley especial para el ejercicio del voto desde el Exterior*, Art. 5.

21 The online portal [www.rreec.gob.sv/votosalex/](http://www.rreec.gob.sv/votosalex/) provides information on external voting.

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

External party offices are neither explicitly permitted nor prohibited according to law in El Salvador. However, unofficial “party houses” exist where informal political activity takes place, financed by emigrants themselves.<sup>22</sup>

### POLITICAL CAMPAIGNS

Political campaigns are also not legally regulated. If they take place, they are unofficial and privately financed and organized.<sup>23</sup>

### MEMBERSHIP

Emigrant membership in political parties is, at least according to the statutes of political parties, equal to membership of resident citizens.<sup>24</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The *Ley especial para la protección y desarrollo de la persona migrante salvadoreña y su familia* created a new national consultative body called *Consejo Nacional para la Protección y Desarrollo de la Persona Migrante y su Familia* (CONMIGRANTES). It is defined as an autonomous, non-profit, inter-institutional public body designed to ensure the implementation and respect of policies relating to the protection of migrants and policies connecting migration and development. It serves as a link between the state and Salvadoran emigrants.<sup>25</sup>

The consultation of this body is structural.<sup>26</sup> It is composed of representatives of the national government and non-governmental representatives: three representatives from emigrants’ associations, one for Salvadoran NGOs dealing with migration issues, one from private universities, one from the University of El Salvador, and one from associations of small and medium

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22 Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany), interview on March 11, 2015.

23 Ibid.

24 FMLN, *Estatuto del Partido Político Frente Farabundo Martí para la Liberación Nacional*, FMLN; ARENA, *Estatuto del Partido Político Alianza Republicana Nacionalista*; La Asamblea Legislativa de la República de El Salvador, *Ley de Partidos Políticos*.

25 La Asamblea Legislativa de la República de El Salvador, *Ley especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 6.

26 Ibid. Art. 17.

enterprises.<sup>27</sup> The leadership of this body is held by the The Vice-Minister of Foreign Affairs for Salvadorans abroad, who chairs the Plenary of the Council. This, in turn, designates the members of the Executive Secretariat.<sup>28</sup> Rather than the *right* to propose initiatives, the *CONMIGRANTES* has the *duty* to make initiatives on migration policies.<sup>29</sup> The law establishes that it is the responsibility of the Ministry of Foreign Affairs, through the Vice-ministry of Salvadorans Abroad, to ensure that the selection process of emigrant representatives is made transparently and that it orients itself to criteria of geographic, territorial and gender representation.<sup>30</sup>

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## ADMINISTRATION

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### CONSULATES

El Salvador's diplomatic network consists of 39 embassies, and 27 consulates as of 2015.<sup>31</sup>

Salvadoran embassies and consulates do not offer financial or psychological consultancy. Expert legal/judicial consultancy is provided only on request. This requirement limits its capacity.

Nonetheless, El Salvador offers extraordinary consular assistance through mobile consulates and special weekend working hours (though not on a regular basis) and special healthcare services through the model of *Ventanillas de Salud*.<sup>32</sup>

### HOME COUNTRY ADMINISTRATION

The specific government administration for emigrant issues in El Salvador is the Vice-Ministry for Salvadorans Abroad, which is at the third rank in the public administration of the country. It was created in 2004,<sup>33</sup> directly below the Ministry of Foreign Affairs. It is structured into four General Directorates:

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27 Ibid. Art. 12, 20-25; Presidente de la República de El Salvador, *Reglamento de ejecución de la Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 4.

28 Presidente de la República de El Salvador, *Reglamento de ejecución de la Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 5.

29 La Asamblea Legislativa de la República de el Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 10.

30 Ibid. Art. 16.

31 Ministerio de Relaciones Exteriores de El Salvador, "Directorio de representaciones diplomáticas y consulares de El Salvador en el exterior."

32 Ventanilla de Salud Washington, DC, "Ventanilla de salud visita consulados hermanos consulado de El Salvador Walgreens."

33 Gammage, "Exporting People and Recruiting Remittances a Development Strategy for El Salvador?" 90.

- General Directorate of Migration and Development: Responsible for directing and coordinating actions directed towards Salvadorans abroad and spaces for the transfer of technology, exchange, and knowledge, and investment and business initiatives in the country and abroad.
- General Directorate of Human Rights: Responsible for ensuring the rights of Salvadoran migrants, respect of international obligations and commitments, and coordination with international actors.
- General Directorate of External Services: Responsible for diplomatic and consular affairs as well as technical legal assistance.
- General Directorate of Culture: Responsible for promoting initiatives to strengthen culture.<sup>34</sup>

A further institution - though not directly dependent on the state - concerned with emigrant issues is the Salvadoran Migrants Institute (*Instituto Salvadoreño del Migrante, INSAMI*), is a not-for-profit organization - a quasi non-governmental organization- intended to create a migration policy to guarantee the rights and obligations of “transnational” Salvadorans.<sup>35</sup> This Institute has recently criticized the state set up for administrating emigrant policies as incapable of addressing the link between migration and local development and limited in its interinstitutional coordination.<sup>36</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The *Proyecto de Cooperación Productiva y Cooperación Técnica*, introduced in 2011, seeks to reduce the costs of sending remittances to El Salvador from abroad.<sup>37</sup>

### INVESTMENT

Several governmental initiatives pursue to attract investments from emigrants. The *Proyecto de Atracción de Inversiones para los Salvadoreños en el Exterior* promotes investment through incentives for small and medium businesses and the *Proyecto de Incentivos para la Creación de Pequeñas y Medianas Empresas* provides advice and technical support and strengthens the link between remittances and business financing through cooperation with financial institutions.<sup>38</sup>

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34 Ministerio de Relaciones Exteriores, “Ministerio de Relaciones Exteriores de El Salvador - Áreas.”

35 “Instituto Salvadoreño del Migrante: Sobre INSAMI.”

36 Ibid.; INSAMI El Salvador, “Migration in El Salvador and the 1st. Year of President Sánchez Cerén in Office.”

37 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 32.

38 Ibid. Art. 35

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

No information has been found on brain-gain programs. However, there are a few initiatives for brain-circulation on the basis of networking: *El Salvador Global* is an initiative led by private and governmental institutions to connect Salvadorans around the world to exchange knowledge.<sup>39</sup> The initiators, on the state institution side, are the Ministries of Foreign Affairs, Economy, Public Health, Education, among others, and, on the private side, agencies such as the German International Cooperation Agency and the Agency for the Promotion of Exports and Investments in El Salvador (PROESA).

Also, the *Proyecto de Transferencia de Tecnología y de Conocimientos Científicos, Técnicos y Culturales* allows emigrants to contribute to the development of innovation and develop educational opportunities.<sup>40</sup>

### RETURN POLICIES

For the recognition of academic and professional qualifications acquired abroad, two different processes apply, corresponding to two different forms of recognitions: equivalencies and incorporations.<sup>41</sup> Both are regulated by the *Ley de Educación Superior*<sup>42</sup> and the *Reglamento para Equivalencias y Pruebas de Suficiencia en Educación Básica y Media e Incorporación de Títulos de Educación Media*.<sup>43</sup> In the case of equivalencies, a decision is taken within eight days. For incorporations, the process can take up to sixty days.

The *Ley Especial para la Protección y Desarrollo de la Persona Migrante Salvadoreña y su Familia* includes several initiatives related to the re-integration of returnees into the country, such as the *Proyecto de Cooperación Productiva y Cooperación Técnica*<sup>44</sup> and the creation of an official job board that should facilitate the resinsertion and matching of returnees, considering their abilities and skills.<sup>45</sup>

The General Directorate of Migration and Immigration also operates services for returnees, which include a variety of educational programs.<sup>46</sup>

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39 "El Salvador Global."

40 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 33.

41 Ministerio de Educación de El Salvador, *Reglamento para equivalencias y pruebas de suficiencia en educación básica y media e incorporación de títulos de educación media*, Art. 4, 7.

42 La Asamblea Legislativa de la República de El Salvador, *Ley de Educación Superior*, Art. 18, 20.

43 Ministerio de Educación de El Salvador, *Reglamento para equivalencias y pruebas de suficiencia en educación básica y media e incorporación de títulos de educación media*, Art. 6, 8 and 9.

44 La Asamblea Legislativa de la República de El Salvador, *Ley Especial para la protección y desarrollo de la persona migrante salvadoreña y su familia*, Art. 32.

45 Ibid. Art. 34.

46 Dirección General de Migración y Extranjería de El Salvador, "Servicio de Atención a Repatriados."



*INSAMI*, with support of the Ministry of Labor, Vice-Ministry for Salvadorans Abroad, and the Executive Secretary of *CONMIGRANTES*, has also carried out activities for financial education, especially targeting Salvadorans returning from the USA.<sup>47</sup> *INSAMI* also created the *Red Nacional de Emprendedores Retornados de El Salvador* (*RENACERES*) network as a resource for Salvadoran returnees.<sup>48</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is obligatory for all Salvadorans between the ages of eighteen and thirty.<sup>49</sup> No exemption is made for emigrants, however, it is not clear in the law how they are supposed to fulfill it or defer it.<sup>50</sup>

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## CULTURAL POLICIES

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The government led by President Sánchez Cerén launched the *Proyecto de Ley de Cultura y Arte* in November 2012 to strengthen the cultural ties and connections of identity between El Salvador and its diaspora by creating the position of cultural attaché within the Ministry of Foreign Affairs to promote Salvadoran culture. The project envisions collaboration between the Ministries of Culture and Foreign Affairs to work towards these ends.<sup>51</sup>

There are no cultural programs explicitly addressing emigrants other than traditional cultural tasks carried out by the embassies (e.g. Central American film festival, several exhibitions of Salvadoran artists, folk dance groups).<sup>52</sup>

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## EXIT AND TRANSIT POLICIES

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No special restrictions exist for citizens who want to leave the country.

With regard to governmental campaigns aiming to regulate the forms of exit and transit of citizens across national borders, there is an overlap

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47 *INSAMI* management, via email correspondence with [direccion.insami@gmail.com](mailto:direccion.insami@gmail.com).

48 *INSAMI*, “Retornados El Salvador.”

49 La Asamblea Legislativa de la República de El Salvador, *Constitución de El Salvador*, Art. 215.

50 La Asamblea Legislativa de la República de El Salvador, *Ley del servicio militar y reserva de la fuerza armada*, Art. 2.

51 FMLN, *Proyecto Ley de Cultura y Arte de El Salvador*.

52 Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany) interview on March 11, 2015.

between campaigns to discourage migration, campaigns to promote a safe transit, and campaigns to inform about rights of migrants. For instance, the *Si estás pensando migrar, el primer paso es informarte* campaign has been conceived by the Ministry of Foreign Affairs to address both causes and consequences of undocumented migration, with special focus on the risks for migrants and their families. It also deals with the social, political, and economic factors contributing to undocumented migration through programs and strategies to reinforce a sense of belonging of potential migrants to their local communities in El Salvador.<sup>53</sup> Also, the *No Pongas en Riesgo sus Vidas* campaign was launched in 2014 to address the migration of unaccompanied minors.<sup>54</sup>

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### SOCIAL POLICIES

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There is currently no possibility for emigrants to maintain healthcare coverage once in another country. However, El Salvador has signed and ratified the Multilateral Ibero-American Social Security Agreement, which is a fundamental tool for the protection of migrant workers and their families.

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### SYMBOLIC POLICIES

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No awards for emigrants exist. There is no reference in the national constitution to emigrants.

However, the Salvadoran Ministry of Foreign Affairs has referred to its *Política Institucional de Protección y Vinculación para los Salvadoreños Migrantes* as a clear priority of the current government. This policy aims to ensure human rights and promote the development of emigrant communities, but also to encourage their social, cultural and economic “rootedness.”<sup>55</sup> In this framework, a permanent exhibition, the *Sala de Migración y Arraigo*, was inaugurated in 2014 within the National Museum of Anthropology Dr. David J. Guzmán to describe, analyze and, display the migratory phenomenon in the country from pre-Columbian times to the present.

In 2004 and 2006, the Salvadoran government organized the so-called *Foros Presidenciales*, to bring Salvadoran migrants closer to national institutions with the participation of prominent Salvadorans around the world.<sup>56</sup> Unfor-

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53 Ministerio de Relaciones Exteriores de El Salvador, “Memoria de Labores 2013-14.”

54 Gobierno de El Salvador, “Migración Niñez - Gobierno de El Salvador presenta campaña de sensibilización sobre los riesgos que enfrenta la niñez migrante salvadoreña.”

55 Ministerio de Relaciones Exteriores de El Salvador, “Memoria de Labores 2013-14.”

56 Xiomara Peraza, “Inclusión Política de la Comunidad Migrante Salvadoreña.”

tunately, there is no record of these *Foros* being organized later on a regular basis. In contrast, the *Convención internacional de comunidades salvadoreñas residentes en el extranjero*, organized by emigrant associations, has taken place annually since 2003.<sup>57</sup>

In 2005, November 26 was designated the *Día del Salvadoreño en el Exterior* in recognition of the efforts of Salvadoran migrants and their contributions to the country.<sup>58</sup> The celebration is recognized by emigrant communities abroad and by officials in El Salvador.<sup>59</sup> Moreover, emigrants are also included in the celebration of the National Day.<sup>60</sup>

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<sup>57</sup> El Rescate, “El Rescate.”

<sup>58</sup> La Asamblea Legislativa de la República de El Salvador, *Decreto No. 825, por el que se declara el 26 de noviembre Día Nacional de los salvadoreños en el exterior*.

<sup>59</sup> Cancillería El Salvador, *Día del salvadoreño y salvadoreña en el exterior*.

<sup>60</sup> Leandro Uzquiano Arriaza (Minister Counsellor of the Embassy of El Salvador in Germany) interview on March 11, 2015.

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## GUATEMALA

Guatemala's migration profile is quite complex and determined in great part by its location in the Central American Isthmus. On the southern border of Mexico, Guatemala is a country of transit for emigrants from other Central American countries heading towards the USA. It is also a country of emigration for some 300 Guatemalans who embark on a dangerous journey northwards to leave their country every day, and of return for some who are deported from the USA or Mexico.<sup>1</sup> According to estimates by the IOM, until 2010 there were 1,637,118 Guatemalans in the United States of America, which amounts to 11% of the Guatemalan population.<sup>2</sup>

Currently, the migration profile of Guatemala is characterized by the securitization of nearly all migration issues: the patrolling of the national guard, on top of the border patrol, and on top of it all, the wall that has distorted migration patterns and routes from Mexico to the USA. Besides the securitization of the USA-Mexico border and the criminalization of migration in some states of the USA, challenges have mounted in Mexico as a transit territory as well with the ever-growing intervention of organized crime into the migratory routes.

Despite the enormous economic contributions of Guatemalan emigrants to their home economy, the field of policymaking by the state for emigrants is nearly empty and no electoral rights have been granted to them. Even if there have been a few scattered proposals to extend voting rights to Guatemalan emigrants, there has been no debate in parliament about enfranchising them. This flies in the face of associations of Guatemalans abroad that have been pressing to raise the issue. Public policy has lagged behind even in making any use of the remittances for productive purposes: While some private initiatives aim to direct them for collective purposes, the state has been passive in this regard, offering just one program to incentivize the use of remittances for investment in small businesses.

Slowly, in the past 10 years more and more documents by different government agencies, notably the Ministry of Foreign Affairs contain plans and commitments to develop policy on emigrant issues. Yet there is a sizeable gap between those programmatic documents and policy output. It is also noticeable that although the Directorate of Consular Affairs, which typically deals with consular issues, has taken on some new functions to better serve Guatemalan emigrants, Guatemala has not created any new bureaucratic agency to exclusively deal with emigrant policies. The Guatemalan state is also remarkably inactive when it comes to recognizing the symbolic importance of em-

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1 Caballeros, "Perfil migratorio Guatemala 2012."

2 Ibid. 48.

igrants for the country. This does not mean, of course, that nothing is done in Guatemala to profit from the return, remittances, and the skills gained by emigrants abroad; only that these have mostly been left to civil society and private actors, and not really taken on by the state.

The Guatemalan state seems preoccupied with designing and developing a set of policies for emigrants residing in the USA, often using the same names that Mexican authorities use for many policies (probably to make it easier for their emigrants to identify the range of services, by now well-known among Latin American communities in the USA). Guatemala has envisioned a policy for the protection and assistance of Guatemalans abroad since 2007.<sup>3</sup> So far, few of these planned actions have become policies, even though a complete network of agencies is planned to take care of their design, development, and implementation. There is a wealth of documents of different kinds, from laws to protocols, defining tasks and functions of bodies that are supposed to handle emigrant issues, but these bodies are so far non-existent beyond mentions on paper.<sup>4</sup>

As in other Central American cases, authorities seem to have a clear idea about the directions in which policies should be developed, but lack the final legal and financial resources (i.e. secondary laws, regulations, or budgets) to do it. Guatemalan emigrant policies rarely go beyond providing basic documents to undocumented migrants, helping them while in detention or throughout judicial processes, accompanying the deportation of minors, and repatriating ill or deceased persons. It is fair to say that although these tasks seem rather basic and traditional for consulates (as opposed to the emigrant policies newly developed by other countries), these have taken a disproportionate dimension for Central American states given the increase in the amount of emigrants in recent decades, which makes their fulfilment costly in terms of human and financial resources.

The improvement of the consular network to meet the increased demand for these services has crystallized in the training of personnel in legal frameworks of the state where they are based, and the improvement of consular service to make it reliable.<sup>5</sup> This has been the start of a momentous change in the administration of state services for emigrants. Even if the changes mean mostly putting the traditional consular services to the challenge of current

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3 Ministerio de Relaciones Exteriores, “Política protección, asistencia y atención al guatemalteco en el exterior.”

4 This could be the result of lack of budgetary resources to create them and make them function; in any case they do not even have a webpage, or a constitution; they are not even established as part of a larger body. (Congreso de la República de Guatemala, *Ley del Consejo Nacional de Atención al Migrante de Guatemala*, CONAMIGUA).

5 This means not only the federal legislations in Mexico and the USA; but also the sub-national state legislation which is very relevant in the latter.

migration trends, it is important to note that this is no small feat given the volume of migrants and the pressing circumstances they may face in Mexico, the USA, or upon returning to Guatemala. Unfortunately, these types of changes are internal to the administration of the consular network and not really observable in the form of the new services to the community which we capture in this book.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Guatemalans by birth cannot be deprived of their nationality under any circumstances and thusly may take on additional citizenships or nationalities.<sup>6</sup>

Foreigners who wish to acquire Guatemalan nationality must renounce their nationality of origin,<sup>7</sup> unless there is a bilateral treaty of dual nationality, as is the case with Spain. However, people born in the Republics that constituted the Federal Republic of Central America (1823-40)<sup>8</sup> residing in Guatemala may apply for Guatemalan citizenship without renouncing their original nationalities and be considered Guatemalans by birth.<sup>9</sup>

Guatemalan nationality can be passed on to the first generation born abroad to Guatemalan parents.<sup>10</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

Guatemalans by birth cannot be deprived of their nationality under any circumstances. Guatemalans by naturalization can lose nationality if they are absent from Guatemala for more than four years, unless they have acquired Guatemalan nationality by marriage, they are residing in another Central American countries, or can justify their absence with official reasons (service to the Republic, etc.).<sup>11</sup> The Constitution states, however, that those who have obtained Guatemalan nationality by origin or by naturalization preserve it with all its rights.<sup>12</sup>

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6 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*, Art. 144.

7 Congreso de la República de Guatemala, *Ley de Nacionalidad*, Arts. 37, 52, 80.

8 The Republic was composed of present-day Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.

9 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*, Art. 145.

10 Ibid. Art. 144.

11 Congreso de la República de Guatemala, *Ley de Nacionalidad. Decreto 1613*, Art. 53.

12 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*, Art. 3.



Citizenship can be lost if nationality is lost, or through voluntary service to nations at war with Guatemala or its allies, as long as that service constitutes high treason.<sup>13</sup> Citizenship can also be lost because of judicial sentence of imprisonment and recovered when the sentence is served, or if amnesty or pardon is granted.<sup>14</sup>

Dual nationals and naturalized citizens face some restrictions for the exercise of some citizen rights (mainly passive politico-electoral rights); for example, foreigners who naturalize in Guatemala are barred from the exercise of certain high public office positions: presidency, vice-presidency, deputies of the congress, judges, and army officers. Also, only Guatemalans by origin may own property 15 kilometers from the borders of the country. Furthermore, neither the naturalized nor Guatemalans by origin with another nationality may be army officers.<sup>15</sup>

#### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

No law deprives of non-residents of their citizen rights by virtue of their absence vis-à-vis national residents. According to Electoral Law, persons who lie about their place of residence to register in the electoral roll where they are not supposed to vote may be suspended of their electoral rights. This is important because there are no electoral rights for non-resident citizens/emigrants.

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#### SUFFRAGE

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Non-resident Guatemalans have no electoral rights, though there have been proposals to allow external voting.<sup>16</sup>

#### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Guatemala does not provide active voting rights for non-resident citizens.

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Although formally there is no prohibition of passive electoral rights for non-residents, non-residents cannot register in the electoral roll and are thus not able to be candidates.

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13 Ibid. Art. 21.

14 Asamblea Nacional Constituyente, *Ley Electoral y de Partidos Políticos*, Art. 4-6.

15 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*. Arts. 162, (Deputy), 185 (President and Vicepresident), 207, 216, 217, 222 (judges of any kind and court), 247 (army officers). Property: Art. 123. Any popular election position: *Ley Electoral y de Partidos Políticos*, Art. 214.

16 Landaverde, "En peligro derecho al voto en el exterior para guatemaltecos."

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## REGULATION OF POLITICAL COMPETITION

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Guatemalan law does not explicitly regulate political competition abroad.

### PARTY OFFICES IN HOST COUNTRIES

No evidence of party offices abroad was found.

### POLITICAL CAMPAIGNS

Though funding by foreigners or foreign organizations is forbidden, the Electoral Law makes no mention of campaigns abroad.<sup>17</sup> There have been reports of Guatemalan politicians campaigning abroad.<sup>18</sup>

### MEMBERSHIP

The statutes of the various Guatemalan political parties generally do not regulate emigrant membership. Only two parties (of dozens), the National Development Action (*Acción de Desarrollo Nacional*) and the Patriot Party (*Partido Patriota*), have a secretary in charge of migrant issues, which indicates that migrants must be eligible for membership and that they are also, at least symbolically, considered a constituency.<sup>19</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The Guatemalan National Council of Migrant Services (*Consejo Nacional de Atención al Migrante de Guatemala, CONAMIGUA*) is an inter-ministerial policymaking body based on inter-institutional coordination. There is an advisory council, composed of institutional representatives and delegates of Guatemalan emigrants, that supports the *CONAMIGUA* in its inter-institutional coordination and international attention to emigrants and their families in Guatemala.<sup>20</sup> This council is consulted at least once a year and may be convened at any time. The council is purely advisory and only has the right to observe the work of the *CONAMIGUA*. So far the fairness of the voting and

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17 Asamblea Nacional Constituyente, *Ley Electoral y de Partidos Políticos*.

18 Caballeros, “El Tema Migratorio en la agenda de los partidos políticos”; Red por la Paz y el Desarrollo de Guatemala. Guatemala Peace and Development Network, “Walda Barrios Concluye Exitosa Visita a Nueva York.”

19 Asociación de Investigación y Estudios Sociales, “Partidos políticos guatemaltecos: dinámica internas y desempeño”, Guatemala, 2012, pp. 8, 12, 105.

20 CONAMIGUA, *Reglamento del Consejo Asesor del CONAMIGUA*, Art. 8.

validation procedures have been contested.<sup>21</sup> The leadership of the advisor council *CONAMIGUA* is neither specified in legislation, but proposals to reform it suggest it is chaired by the Minister/Secretary of Foreign Affairs. When the *CONAMIGUA* advisory council gives recommendations, there is no right to a response established in law; as they are invited as observers.<sup>22</sup>

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## ADMINISTRATION

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### CONSULATES

As of 2014 Guatemala had 64 consulates and consular offices in 56 countries, not counting honorary consulates.<sup>23</sup>

Guatemala also operates monthly mobile consulates from the general consulates<sup>24</sup> and some consulates had special opening times.<sup>25</sup>

Guatemalan consulates offer legal or judicial consultancy through two programs. The first is the *Justicia global* program, which connects lawyers of different branches of law with Guatemalans in the US through general consulates. The second is an online platform, *PALMIGUA* (*Portal de asistencia al migrante guatemalteco*), that allows migrants to send legal questions in different formats (written, in videoconferences, or chats) to the consulate. The idea of the program is to help Guatemalans know their rights and prevent abuse by unscrupulous lawyers.<sup>26</sup>

Regarding additional services and given the amount of undocumented Guatemalan migrants in the USA (estimated at 800,000), it is worth mentioning that Guatemalan consulates issue the “*tarjeta de identificación consular*” which is an identity document that does not substitute the passport, but allows Guatemalans to get certain services in the US, as opening bank accounts, getting driving licenses, depending on the state where they reside.

### HOME COUNTRY ADMINISTRATION

Emigrant issues are dealt with in the Guatemalan home administration through the Vice-Ministry of Foreign Affairs for Human Rights and Migrant Services (*Viceministerio de relaciones exteriores en derechos humanos y atención al mi-*

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21 Morales, “Conamigua señala fraude en elección de consejo asesor.”

22 CONAMIGUA, *Reglamento del Consejo Asesor del CONAMIGUA*, Art. 10.

23 Caballeros, “Marco general de la política migratoria de Guatemala 2012-2016, Presidente Otto Pérez Molina.”

24 Consulado General de Guatemala, “Consulados del 2014.”

25 Alegre, “Consulado de Guatemala organiza jornada sabatina.”

26 Rodas Melgar, “Informe ejecutivo de los principales resultados del Ministerio de Relaciones Exteriores durante 2009, de acuerdo a lineamientos para el periodo 2008-2012,” 10.

*grante*) under the Ministry of Foreign Affairs created in 2005.<sup>27</sup> There is no indication that a vice-minister is especially in charge of Guatemalans abroad.

The General Directorate of Consular and Migrant Affairs deals with emigrant issues, but also with wider migration issues and the regular consular organization. The Migrant Services Center within the Ministry of Foreign Relations serves as the headquarters for CONAMIGUA and was created with the objective of providing improved service to Guatemalan migrants and their families. It provides on-site services in the areas of protection, free internet, a conference room, legal counselors, an employment office, a health office, and an investment counseling section. Additionally, consultations can be made on Guatemalans who are missing, deceased, or detained abroad.<sup>28</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

Guatemalan migrants contribute enormously to the Guatemalan economy, with some estimates<sup>29</sup> indicating that remittances amount to some 11% of the GDP of Guatemala, and yet, there are no programs to incentivize the sending of remittances or to improve the channels to transfer money (e.g. fee controls, banking agreements).

### INVESTMENT

*Encuentro con el Migrante* is part of the *Programa Nacional de Competitividad (Pronacom)*, led by the Ministry of the Economy, and attempts to provide incentive for investment and the creation of productive businesses, using family remittances in sustainable projects.<sup>30</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

No brain circulation networks directed at Guatemalan emigrants exist.

### RETURN POLICIES

Recognition of degrees, titles and diplomas is addressed by the Constitution, but there is no mention of the process's duration. Guatemala has agreements with Mexico for automatic recognition of qualifications and with Cuba for homologation of titles of Guatemalans studying medicine in Cuba. Degrees

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27 Maldonado Ríos, Zea Wellmann, and Caballeros, "Marco general y descripción de acciones del Estado de Guatemala en materia migratoria."

28 Caballeros, "Perfil Migratorio Guatemala 2012." 77.

29 Maldonado Ríos, Zea Wellmann, and Caballeros, "Marco general y descripción de acciones del Estado de Guatemala en materia migratoria." 15.

30 Ibid. 65.

and titles from Central American universities are fully valid in Guatemala.<sup>31</sup> The Universidad de San Carlos is the only institution responsible for the recognition of foreign qualifications.

There is also an exemption from import duties for Guatemalans who resided abroad permanently. This includes VAT on their belongings, the import of a car every five years, and to cash their retirement pension in Guatemala.<sup>32</sup> It is worth mentioning that this tax incentive is also applied to foreigners who move to Guatemala for retirement only, and is thus part of a general immigration policy, rather than a policy developed solely for Guatemalan emigrants. There are no other programs that aim to facilitate the re-integration of returnees in Guatemala in a fuller sense.

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

It is a duty of all Guatemalans to do military for 18 months, but it is not clear how emigrants are supposed to comply with this. While there are exemptions, there is no mention of being excused due to absence from the territory. However, there is suggestion that if the person enlists, but is not called to service within one year, the obligation is considered fulfilled.<sup>33</sup> Civic service is voluntary. The President, together with ministers, decides how many people are needed and may be called to serve every year.<sup>34</sup>

Tax legislation in Guatemala is based on the principle of territoriality, which means that taxes are applied to economic activities that take place in Guatemalan territory. If Guatemalans abroad derive any income from an economic activity domiciled in Guatemala, then they are obliged to pay taxes in Guatemala.<sup>35</sup>

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## CULTURAL POLICIES

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There are no cultural centers abroad managed and funded by the Guatemalan state. There are also no cultural promotion offices within consulates, apart from the mixed touristic and cultural promotion within embassies.

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31 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*, Art. 87.

32 Congreso de la República de Guatemala, *Ley de Migración. Reglamento de la Ley de Migración*, Art. 27, 30.

33 Alonzo, "Jóvenes de Servicio Cívico Reciben Inducción."

34 Congreso de la República de Guatemala, *Ley del Servicio Cívico*, Art. 1, 2.

35 Congreso de la República de Guatemala, *Ley del ISR Guatemala*, Art. 1.

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## EXIT AND TRANSIT POLICIES

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The constitution states that “any person may enter, remain, transit and exit national territory and change domicile and residence without further limitation by the law.”<sup>36</sup> However, the migration law specifies that any person who intends to exit the national territory must do so through established places intended for exit, with the proper documentation and submit to migration control.

To promote safe transit, the Ministry of Labor and Social Provision has organized an information campaign in Spanish and indigenous languages to disseminate information about the rights of migrants, the dangers associated with migration, and recommendations to obtain proper documentation and denounce any abuse by employers or authorities in Mexico.<sup>37</sup> The Ministry of Social Wellbeing and Save the Children Guatemala broadcasted two radio spots, a song and one *radionovela* (radio soap opera) about transit in Spanish and Mayan languages through channels available to the Ministry of Education in local communities.<sup>38</sup>

Furthermore, the Guatemalan government had planned to publish a manual with information on the protection, assistance, and attention that consulates offer in transit (Mexico) and destination (US, Canada) countries, and addresses and telephone numbers of Guatemalan representations abroad, mainly in North America.<sup>39</sup> Rather than a manual, this became a directory with some important telephone numbers and addresses.

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## SOCIAL POLICIES

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There is no employment insurance in Guatemala and no other employment benefits that could be maintained abroad. Pensioners who reside abroad but had a contract relationship in Guatemala and contributed to a state pension scheme may get a declaration that exempts them from the periodic verification of their survival with the confirmation of the consul in order to keep receiving their retirement pension abroad.

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36 Asamblea Nacional Constituyente, *Constitución Política de la República de Guatemala*, Art. 26.

37 Comisión Interamericana de Derechos Humanos, “Informe Anual 2002. Capítulo VI, Migrantes.”

38 Alonzo, “Campaña ‘¡Quédate!’ Para evitar migración de menores, se oirá en idiomas mayas.”

39 Ministerio de Relaciones Exteriores, “Política protección, asistencia y atención al guatemalteco en el exterior.”

For social security in general there are neither bilateral, nor multilateral agreements/treaties in force as of May 2015.

Emigrants do not have access to healthcare schemes available in Guatemala under the same conditions as resident citizens. Guatemalan consulates have begun to offer healthcare counseling in their consulates across the USA, and there are plans to participate in the so-called Bi-national Health Weeks.<sup>40</sup>

Since 2007, the Ministry of Foreign Affairs, the Ministry of Education and the consular missions of Guatemala abroad collaborate in literacy programs directed at Guatemalans abroad.<sup>41</sup>

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## SYMBOLIC POLICIES

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There are no symbolic policies developed by the Guatemalan state. Private actors abroad and associations of Guatemalans abroad sponsor fairs to celebrate Guatemalan national days or culture (e.g. *ferias chapinas*, independence day, *fiesta maya*) in some localities in the USA and sometimes have the support of the Ministry of Foreign Affairs with the presence of a consul or diplomats. There is no policy to celebrate officially with emigrants or to finance any events.<sup>42</sup>

September 1, declared the day of the migrant by Pope Benedict XV in 1914 and commemorated by the Catholic Church in Guatemala, is recognized by the state as a legitimate celebration in Guatemala, but it is not devoted to emigrants only. There has also been a proposal in Congress to declare December 18 (International Migrants) National Migrants Day in Guatemala, but this is not yet a law.<sup>43</sup>

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40 Renglones especiales de gasto MINEX, 2013

41 Ministerio de Relaciones Exteriores, “Política protección, asistencia y atención al guatemalteco en el exterior,” 26.

42 MINEDUC et al., “Análisis y estudio de las migraciones según el curriculum nacional base. Una visión desde la perspectiva de Guatemala.” 44.

43 Comisión de Migrantes del Congreso de la República de Guatemala, “Día Nacional del Migrante”.

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# HONDURAS

Migrants play an important role in today's Honduras. Remittances represent the biggest source of foreign exchange capital for the Honduran economy.<sup>1</sup> Yet, Honduras falls short of developing comprehensive policies to its emigrant population, which amounted to an estimated 648,500 people, or 7.4% of the population in 2015.<sup>2</sup> The Law for the Protection of Honduran Migrants and their Families (*Ley de Protección al Hondureño Migrante y sus Familiares*, henceforth *Ley de Protección*) of 2013, marked a watershed in this respect. It provided the guidelines for thorough, integral, and horizontal policymaking in matters of emigrant policy. Unfortunately, its entry into force was delayed until February 2014, and various regulatory secondary laws required for its full implementation have not yet been approved. Its implementation would mean important changes and consequences for the national institutional system. In March 2015, one obstacle for such implementation was cleared with the publication of a law that finally regulated the establishment of a trust to finance policies foreseen by the *Ley de Protección*.<sup>3</sup>

Still, some incipient political efforts to recognize Honduran emigrants' rights and their protection by the state have started to operate recently through several programs. This does not change the fact that emigrant policies in Honduras still focus on the most urgent issues, such as the protection of Honduran emigrants in transit, attention to migrants in extreme circumstances (suffering injuries or death during migration, or victims of human trafficking, etc.), and, recently, the reintegration of returnees. Crucially, the organ responsible for implementing emigrant policies, the foreign service, is severely limited and weak in its reach and powers. This challenges the degree to which the policies envisaged by the *Ley de Protección* are applicable by the state and perhaps explains why the few existing policies have developed thanks to the cooperation with NGOs and international organizations and foreign state institutions.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Honduran legislation distinguishes between Hondurans by birth and naturalized Hondurans.

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1 Banco Central de Honduras, "Resumen ejecutivo semanal del 7 al 13 de noviembre de 2014."

2 IOM, "Honduras, Global Migration Flows."

3 Poder Legislativo, *Decreto N°15-2015. Reforma Art. 29 de la ley de protección de los hondureños migrantes y sus familiares*.

For naturalized Hondurans, no dual nationality is permitted unless a bilateral nationality agreement exists.<sup>4</sup>

For Hondurans by birth, multiple nationalities are permitted with no limit as to the number of generations born abroad that can pass on nationality via *jus sanguinis*.<sup>5</sup> There are no official and reliable data on the number of Hondurans who hold more than one citizenship or nationality.

### LOSS OF CITIZENSHIP/NATIONALITY

Naturalized Honduras can lose Honduran nationality upon residing abroad for two consecutive years without permission from the executive power. This means that a distinction is made between nationality and citizenship, and that this has different effects for different groups: While nationality is preserved for Hondurans by birth who reside abroad (but lost if they acquire a second nationality), naturalized Hondurans lose citizenship for mere residence abroad of over 2 years.<sup>6</sup>

Furthermore, citizenship can be lost in situations different than residence abroad, such as serving a wartime enemy of Honduras, acting against the national interest, or electoral fraud.<sup>7</sup>

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

External voting is only permitted for presidential elections (i.e. not for the National Congress) and only in cities determined by the Supreme Electoral Court by a simple majority of votes.<sup>8</sup> Specific criteria for the selection of cities are not clearly stipulated in the law, beyond the mention that these must be the cities abroad that have the highest concentration of Honduran emigrants.<sup>9</sup>

However, the same law designates only six cities in the USA.<sup>10</sup> According to commentators on the electoral process abroad, this was justified in terms of logistical and financial reasons, since this is what seemed achievable with the available budget (about USD \$600,000). However, the low participation rates

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4 El Congreso Nacional de Honduras, *Constitución Política de la República de Honduras*, Art. 24.

5 Ibid. Art. 28.

6 Ibid. Art. 42.6.

7 Ibid. Art. 42.

8 El Congreso Nacional de Honduras, *Ley especial para el ejercicio del sufragio de los hondureños en el Exterior*. (Considerandos).

9 Ibid.

10 Ibid. Art. 17.

in 2005 led to criticism of the amount allocated for this electoral exercise.<sup>11</sup> A seventh city, Atlanta, was added for the 2013 elections.<sup>12</sup>

Even though voting is a duty for every Honduran citizen,<sup>13</sup> the external voting law implies that Hondurans abroad vote only when the circumstances permit it.<sup>14</sup>

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The *Ley de Protección* states that Hondurans abroad have the right to vote and be elected according to the law.<sup>15</sup> The Honduran Electoral Law does not explicitly recognize the candidacy rights of non-residents, but there is no explicit restriction of candidacy rights for emigrants.

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Voting takes place in polling stations co-determined by the *junta electoral* and emigrant associations. These are authorized by the *junta electoral* and the consulates.<sup>16</sup>

#### REGISTRATION FOR THE FRANCHISE

Registration for citizens in Honduras is automatic.<sup>17</sup> For non-residents however, registration is always active.<sup>18</sup>

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#### REGULATION OF POLITICAL COMPETITION

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There is a legal vacuum on this issue as external political party offices in Honduras are neither allowed nor prohibited. This ambiguity has been used by some political parties to carry out political campaigns abroad.<sup>19</sup>

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11 International Institute for Democracy and Electoral Assistance, “Honduras: Los efectos de una decisión basada en cálculos políticos.”

12 El Heraldo, “Voto en el exterior: costos y expectativas ”

13 El Congreso Nacional de Honduras, *Constitución Política de la República de Honduras*, Art. 40.3.

14 El Congreso Nacional de Honduras, *Ley especial para el ejercicio del sufragio de los hondureños en el exterior*.

15 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 4.1.

16 El Congreso Nacional de Honduras, *Ley especial para el ejercicio del sufragio de los hondureños en el exterior*, Art.4.

17 El Congreso Nacional de Honduras, *Ley electoral y de las organizaciones políticas*, Art. 45.

18 El Congreso Nacional de Honduras, *Ley especial para el ejercicio del sufragio de los hondureños en el exterior*, Art. 5.

19 Head of the Consular Office, Honduras Embassy in Mexico City, interview, February, 2015.

### POLITICAL CAMPAIGNS

The Electoral Law regulates political campaigns and propaganda, but there is no mention of political campaigns abroad.<sup>20</sup> The only prohibition refers to political funding by foreign natural or legal persons.<sup>21</sup>

### MEMBERSHIP

Emigrant membership in political parties is formally permitted without restrictions, thus leaving it to parties to decide the terms of their membership. Thus, the statutes of the Honduran National Party are an example of a party that seeks emigrant membership,<sup>22</sup> while the Honduran Liberal Party restricts membership to residents.<sup>23</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

Although CONAPROHM is defined in the *Ley de Protección* as a body for the consultation on emigrant issues for the Ministry of Foreign Affairs,<sup>24</sup> it is not properly a body for the institutional participation of emigrants themselves as sources of counsel for the state, but rather a body for inter-institutional coordination. (See the “Administration” section below)

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## ADMINISTRATION

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### CONSULATES

Honduras’s current diplomatic network extends to 33 embassies and 47 consulates.<sup>25</sup>

Honduran consulates offer neither legal consultancy, nor financial or psychological consultancy to emigrants.<sup>26</sup> Honduran detainees in Mexico, however, may receive these consultancies financed by the Mexican state.<sup>27</sup> None-

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20 El Congreso Nacional de Honduras, *Ley electoral y de las organizaciones políticas*, Art. 140-149.

21 Ibid. Art. 83.4 and 83.5.

22 PNH, “Estatutos del Partido Nacional de Honduras,” Art. 14-16.

23 PLH, “Estatuto del Partido Liberal de Honduras,” Art. 28.

24 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 22.

25 ÚltimaHora.hn, “TSC: Investigaciones deben ampliarse a todas las embajadas y consulados de Honduras en el mundo.”

26 Ibid.

27 Secretaría de Relaciones Exteriores de la República de Honduras, “En la búsqueda

theless, Honduras offers extraordinary consular assistance through mobile consulates and special health services.<sup>28</sup> Recently, Honduran consulates have started to issue the *Matrícula Consular* for the identification of Honduran migrants abroad without any inquiry into their migratory status, following the Mexican model.<sup>29</sup>

The Consular and Migratory Observatory of Honduras (*Observatorio Consular y Migratorio de Honduras, CONMIGHO*), was created to contribute to decision-making and policy design on migrant and consular issues, to register the different consular services provided to migrants, and to oversee the execution of a solidarity fund with Honduran migrants.<sup>30</sup>

### HOME COUNTRY ADMINISTRATION

The main body for emigrant policy design is the General Directorate for the Protection of Honduran Migrants (*Dirección General de Protección al Hondureño Migrante*), which is at the third rank in public administration and was created within the hierarchy of the Secretariat of Foreign Affairs.<sup>31</sup> This office is subdivided in two offices; one for protection, one for return. This was created by the *Ley de Protección*, which also created the Office for the Protection of Honduran Migrants (*Oficina de Protección al Migrante Hondureño, OPROMH*) and placed it within the structure and budget of the Ministry of Foreign Affairs, to execute all policies created by said law. *OPROHM* is designated to be an inter-institutional organ for the administration of emigrant policies, with liaison personnel in five ministries.<sup>32</sup>

Moreover, the *Ley de Protección* envisaged the creation of the National Council for the Protection of Honduran Migrants (*Consejo Nacional para la Protección al Hondureño Migrante, CONAPROHM*) as an advisory body under the Secretariat of Foreign Affairs.<sup>33</sup> This is another body of inter-institutional coordination between the Ministry of Foreign Affairs, the *Centro de Atención al Migrante*, and over a dozen other bodies of public administration (ministries, institutes, directorates, including the Directorate for the Protection of Honduran Migrants

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de la excelencia en la asistencia migratoria y la prestación de servicios consulares 2012.”

28 Ventanilla de Salud Washington, DC, “Ventanilla de salud visita consulados hermanos consulado de Honduras”; La Conexión USA, “El consulado móvil de Honduras estará en Wallace.”

29 Carranza Discua, “Introducción del jefe de Delegación de Honduras ante el Comité para la Protección de los Derechos de todos los Trabajadores Migratorios y de sus Familiares,” 5.

30 Ibid. 4.

31 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 24

32 Ibid. Art. 25.

33 Ibid. Art. 20.

which acts as Secretary in the Council).<sup>34</sup> It was inaugurated for the first time in March 2014 by the vice-minister of Foreign Affairs.<sup>35</sup> It is unclear how often it is supposed to meet and what its distinctive role is besides the *OPROHM*.

The *Ley de Protección* also created the Office for the Assistance of Return Migrants (*OFAMIR*).<sup>36</sup>

On July 1, 2014, Honduras created the National Institute for Migration, in order to address the issue of unaccompanied migrant minors. However, this is a hybrid body that also handles other migration issues, and is mostly concerned with immigration and transitory migration.<sup>37</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

The only element of the *Ley de Protección* addressing remittances sets out the objective of significantly reducing the costs of sending remittances and improving financial services available to Hondurans.<sup>38</sup>

### INVESTMENT

The *Ley de Protección* intends to promote investment in human capital, productive activities, and social infrastructure.<sup>39</sup>

The *Remesas Solidarias y Productivas* program started in 2011 as a pilot in three municipalities to promote the investment of remittances in productive endeavors. It was modeled after the 3x1 model in Mexico and combines remittances with an equal contribution by the government and the municipality.<sup>40</sup> After being phased out, it was reintroduced in 2015 without the participation of municipalities.<sup>41</sup>

### BRAIN-CIRCULATION NETWORKS

*Honduras Global* is a brain-circulation network created in 2011, in the form of a private-public partnership to establish a foundation and formed by several national and international institutions. The goal of *Honduras Global* is to

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34 Ibid. Art. 22.

35 Pavon, "Vicecanciller Diana Valladares instala consejo nacional de protección al hondureño migrante CONAPROHM, Registro Nacional de las Personas."

36 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 27.

37 Consejo de Ministros, *Decreto Ejecutivo PCM-031-2014*.

38 Ibid. Art. 1.8.

39 Ibid. Art. 1.9.

40 Diario la Prensa, "Gobierno lanza programa de remesas solidarias."

41 "Reactivan programa de remesa solidaria."

connect highly qualified Hondurans around the world in order to encourage innovation and development in science, technology, and business.<sup>42</sup>

### RETURN POLICIES

The *Ley de Protección* created an integral policy of return of Hondurans abroad (*Política Integral para el Retorno de los Hondureños en el Exterior*), which aims to establish centers for returnees, remove obstacles to reinsertion in social security systems and the job market, provide support in kind for return of single earning women, and offer traineeships and skill acquisition to get employment upon return. However, a return program as complete as envisaged by that law only exists for Hondurans in Spain, and depends on the cooperation of the International Organization for Migration, the European Fund for Return, and the Spanish Ministry for Employment and Education. It includes payment of flights home, a modest economic one-time transfer upon return, and up to 20 hours of training on opening a small business, as well as information about return conditions and psychological and employment consultancy.<sup>43</sup>

A recently implemented service run by the Honduran Migrant Solidarity Fund (*Fondo de Solidaridad del Migrante Hondureño*, FOSMIH) and the IOM, created by the *Ley de Protección* in 2013 and financed in 2015, is the immediate assistance to returned (deported) families, children, and adolescents.<sup>44</sup> This service benefited over 62,000 returnees in 2015.

Further programmatic measures for the administration of return programs in the framework of the *Ley de Protección* are still being developed.<sup>45</sup>

The *Ley de Protección* also considers the recognition of academic titles.<sup>46</sup> Academic and professional qualifications acquired abroad must be recognized by the general consul closest to the place of residence and then be sent to the Ministry of Foreign Affairs in Honduras. There is no definition of a period within which the applications must be resolved.<sup>47</sup>

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42 “Honduras Global.”

43 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 19, 27.

44 Diario El Heraldó Honduras, “Millonario fondo para migrantes hondureños”; Radio HRN, “Cinco millones de dólares serán invertidos para crear el Fosmih”; Radio La Primerísima, “Gobierno hondureño destina millonario fondo para migrantes”; Diario La Tribuna Honduras, “Congreso Nacional aprueba crear fondo para atender a migrantes.”

45 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 1.13, 11.2, 13.

46 Ibid. Art. 16.

47 Ministerio de Empleo y Seguridad Social, Gobierno de España, “Ministerio de Empleo y Seguridad Social: Requisitos para estudiar en Honduras.”



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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service became voluntary in 2009. Therefore, emigrants are not obligated to serve.<sup>48</sup>

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## CULTURAL POLICIES

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The *Ley de Protección* aims to strengthen emigrants' sense of belonging<sup>49</sup> and to spread Honduran culture among them.<sup>50</sup> The Department of Cultural Affairs of the Ministry of Foreign Affairs promotes Honduran culture and art and coordinates cultural activities with embassies abroad.<sup>51</sup> However, besides the traditional cultural activities carried out by the embassies and consulates, the state has not implemented other cultural programs explicitly targeting emigrants.

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## EXIT AND TRANSIT POLICIES

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Mobility restrictions apply for Hondurans going abroad for work, who must provide proof of employment.<sup>52</sup> Discouraging undocumented migration is a goal of the *Ley de Protección*, however the law provides no information on specific measures.<sup>53</sup> In 2014, the Ministry of Foreign Affairs launched the *No arriesgues la vida de tus hijos, la migración infantil también es abandono* campaign. It aimed to explain the potential risks to children of leaving the country through written materials, radio spots, and digital communication.<sup>54</sup> Since April 2016, another program, *EuroLabor*, financed by the European Union and the Spanish Agency for Development Cooperation (*Agencia Española de Cooperación Internacional para el Desarrollo, AECID*), but administered by the Honduran

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48 El Congreso Nacional de Honduras, *Ley del Servicio Militar*.

49 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 1.10

50 Ibid. Art. 1.10

51 Organización de Estados Iberoamericanos para la Educación, la Ciencia ya la Cultura, "Guía de La Administración Cultural Iberoamericana: Honduras."

52 El Congreso Nacional de Honduras, *Ley de Migración y Extranjería*, Art. 85.

53 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 18.16.

54 Secretaría de Relaciones Exteriores de la República de Honduras, "Lanzan campaña para prevenir migración infantil en Honduras."

government, aims to give employment to returnees and thereby prevent emigration of children and young people. This program will work for four years.<sup>55</sup> Other international organizations, such as UNICEF, have launched campaigns to prevent emigration from Honduras, such as *Cambiamos el presente, no dejemos que se vayan*, but this was not an initiative by the Honduran state and it relied only on the support of municipalities for its implementation.<sup>56</sup>

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## SOCIAL POLICIES

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The *Catracho seguro* program, launched in September 2011, seeks to offer medical assistance and the possibility of maintaining employment and retirement benefits for all Honduran emigrants and their families residing in Atlanta, Boston, Chicago, Houston, Los Angeles, Miami, New Orleans, New York, and Washington, D.C. A Regime of Disability, Old Age, and Death will be provided in order to facilitate integration of returnees. If the program proves to work as expected, it will be extended to Honduras residing in other regions, such as Central America or Europe.<sup>57</sup> The same is also laid out in the *Ley de Protección*.<sup>58</sup>

However, both initiatives are currently inoperative. The *Ley de Protección* lacks implementing regulation and the implementation of the program *Catracho seguro* has been deferred because of a corruption scandal involving Mario Zelaya, initiator of this program and ex director of the Honduran Social Security Institute (*Instituto Hondureño de Seguridad Social, IHSS*).<sup>59</sup>

Regarding education, the program *Bachillerato en Línea para Migrantes*, targets Hondurans abroad who did not finish their primary or secondary education and offers them the chance to conclude these studies online.<sup>60</sup>

The *Ley de Protección* obligates the state to create online study programs through the *Universidad Nacional Autónoma de Honduras*.<sup>61</sup>

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55 EFE, "Honduras Promueve empleo juvenil para evitar migración con apoyo de España y de la UE."

56 Centro de Información de las Naciones Unidas, "Honduras lanza campaña para proteger a niños migrantes."

57 El Heraldo, "Sistema de afiliación a 'Catracho Seguro' será rehabilitado."

58 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 12, 18.10.

59 Periódico Zócalo, "Procesan por corrupción a exdirector del Seguro Social en Honduras."

60 Departamento 19, "Ministro de Educación presenta proyecto de bachillerato en línea para Migrantes".

61 El Congreso Nacional de Honduras, *Ley de protección de los hondureños migrantes y sus familiares*, Art. 15.

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## SYMBOLIC POLICIES

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The *Ley de Protección* expresses commitment to provide state support to emigrant associations and reinforce the cooperation.<sup>62</sup> Beyond this statement, no symbolic policy is in effect in Honduras.

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62 Ibid. Art.1.10, 1.11, 11

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# JAMAICA

The IOM estimates that in 2015 almost 28 percent of the Jamaican population lived outside the country. Jamaican emigrants were concentrated mostly in the United States, United Kingdom and Canada.<sup>1</sup> With more than a quarter of its population abroad, Jamaican emigrant policy is shaped by challenges such as avoiding brain-drain and channeling remittances into productive development.<sup>2</sup>

An analysis of the emigrant policies adopted by Jamaica in recent years shows indeed that there is an incipient strategy to create and maintain links with its diaspora that goes beyond the mere interest for remittances. Jamaica has, for instance, the “Diaspora Advisory Board,” a consultative institution through which emigrants are able to express their interests and demands directly to the government. Furthermore, the Ministry of Foreign Affairs and Foreign Trade has within its structure a Directorate for Diaspora and Consular Affairs, which is in charge of coordinating the action of the government towards its diaspora. The inclusion of the Jamaican diaspora into the political arena of Jamaica, however, is still far from complete, since Jamaicans living abroad cannot participate in elections.

Nevertheless, the importance of remittances for the Jamaican economy can be observed through the adoption of regulation to promote transparency of remittance channels. Brain-gain has also been a policy dimension that has been present in Jamaica in recent decades. The current “Returning Resident Program,” for instance, ensures that returnees can import their possessions without paying taxes. Jamaica has also developed social and symbolic policies.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Jamaica does not differentiate between ‘nationality’ and ‘citizenship.’ Furthermore, neither the Jamaican Constitution nor the Jamaican Nationality Act refers to the conditions to acquire other nationalities. This lack of regulation allows Jamaicans to take on other nationalities. There is no limit in regards to the generations of Jamaicans abroad that can retain Jamaican nationality. There is also no restriction on which nationalities they may acquire.<sup>3</sup>

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1 International Organization for Migration, “Jamaica.”

2 Ibid.

3 The Queen’s Most Excellent Majesty in Council, *The Jamaica (Constitution) Order in Council*; House of Representatives, *Jamaican Nationality Act*.

## LOSS OF CITIZENSHIP/NATIONALITY

The Jamaican Constitution and the Jamaican Nationality Act differentiate between citizens by birth and citizens by naturalization. The former cannot be deprived of their citizenship.<sup>4</sup> The latter, however, can lose their citizenship if they reside abroad permanently for more than seven years.<sup>5</sup>

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Jamaica has a parliamentary system. The legislative power is divided in two chambers, the Senate and the House of Representatives.<sup>6</sup> The 21 members of the Senate are elected indirectly; they appointed by the Governor-General in accordance with the Prime Minister and the Leader of the Opposition.<sup>7</sup> In regards the lower house, the House of Representatives, the Jamaican Constitution establishes that a person may register as an elector only if he/she resides in Jamaican territory at the moment of registration.<sup>8</sup> Therefore, non-resident citizens are not allowed to vote in elections held in Jamaica.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Jamaican Constitution establishes that only those persons that have resided in Jamaican territory for at least twelve months preceding an election may be appointed as Senators or elected to the House of Representatives.<sup>9</sup> Therefore, non-resident Jamaican citizens cannot be candidates in elections.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

Jamaica has a consultative body of emigrant affairs at the national level since 2004. The Diaspora Advisory Group emerged from the first Biennial Jamaica Diaspora Conference. Its primary function is to advise the Minister of Foreign Affairs and Foreign Trade with the responsibility of Diaspora Affairs on issues that affect Jamaican citizens living abroad. The members of the

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4 The Queen's Most Excellent Majesty in Council, *The Jamaica (Constitution) Order in Council*, Art. 8 (1)

5 House of Representatives, *Jamaican Nationality Act*, Art. 8(3)

6 The Queen's Most Excellent Majesty in Council, *The Jamaica (Constitution) Order in Council*, Art. 34.

7 Ibid. Art. 35.

8 Ibid. Art. 37.

9 Ibid. Art. 39.

Advisory Board are elected by their peers and appointed by the Minister for Diaspora Affairs, they serve a two year term with the possibility of reelection and are required to keep in touch with the Jamaican diaspora. Members should represent the main Jamaican diaspora locations. The consultative body meets in Jamaica at least twice per year, but also has the possibility of convening telephone conferences on a quarterly basis. Although the Minister for Diaspora Affairs is also the chairman of the Advisory Board, the board is free to discuss all the issues that concern the community of Jamaicans abroad, however, they do not have the right of initiative to make their own reports or recommendations to the government, nor is the government obliged to give an official response to their demands.<sup>10</sup>

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## ADMINISTRATION

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### CONSULATES

Jamaica has 3 consulates and 80 honorary consulates in 66 countries. The consulates are not open on weekends nor do they offer online services or mobile offices.<sup>11</sup> Furthermore, Jamaican consulates do not offer legal, psychological, or financial consultancy.

### HOME COUNTRY ADMINISTRATION

Jamaica has two administrative units related to emigrant policies. One is the Directorate of Diaspora and Consular Affairs, which is subordinated to the Foreign Services Operations Division of the Ministry of Foreign Affairs and Foreign Trade. This office is in charge of coordinating all policy programs designed to reach the Jamaican diaspora. The directorate is located on the third administrative level within the hierarchical administration of the Ministry.<sup>12</sup> The other administrative unit is the Implementation Council. It has the mandate of implementing the recommendations emanating from the Fifth Biennial Diaspora Conference held from June 16 to 19, 2013. It is essentially an intergovernmental body with representation of other societal actors such as foundations.<sup>13</sup>

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10 Lincoln Downer, Assistant Director of the Jamaican Diaspora and Consular Affairs Department, in an interview.

11 Ibid.

12 Jamaica Information Service, "Jamaicans Overseas & Consular Affairs Department."

13 Jamaican High Commission, "Minister for Diaspora Affairs Welcomes the Establishment of Post Diaspora Conference Implementation Council."



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## ECONOMIC POLICIES

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### REMITTANCES

Jamaica has developed a framework to regulate remittance channels with the goal of controlling money laundering. The framework is managed by the Bank of Jamaica and the Ministry of Finance and Planning.<sup>14</sup> Furthermore, the Jamaica's International Migration and Development Policy has established as a goal that, by 2030, there should be already a system for the transmission and management of remittances that enhance development. Under this framework, Jamaica plans to take operative actions such as improving the regulation of remittances or promoting financial literacy for migrant and recipients.<sup>15</sup>

### INVESTMENT

Jamaica has made some efforts in recent years to develop a policy to attract investments from non-resident nationals. Examples of these efforts are tax breaks for investing in the Jamaican Stock Exchange that applies for Jamaicans living in Canada<sup>16</sup> or the celebration of a Diaspora Conference organized by the Ministry of Foreign Affairs, focused on investment opportunities for the diaspora.<sup>17</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

The Diaspora Youth Connect Project is managed by the Jamaica Diaspora Institute<sup>18</sup> and its main goal is to incorporate the knowledge and financial resources of the diaspora into the Jamaican economic structure.<sup>19</sup>

### RETURN POLICIES

Jamaica recognizes qualifications obtained abroad. Interested applicants must send an "Application for Assessment of Credentials" to the University Council of Jamaica. Once the application has been registered, the process ought to take up to 15 working days (however, the process can be extended if it involves

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14 Bank of Jamaica, "Supervision of Remittance Services."

15 Lincoln Downer, Assistant Director of the Jamaican Diaspora and Consular Affairs Department, in an interview.

16 "Jamaican Diaspora Commended for Support to Country"; "Jamaica Deemed Ready for Diaspora Investments."

17 McIntosh, "Investment Opportunities Main Area of Focus at Diaspora Conference - Jamaica Information Service."

18 The Jamaica Diaspora Institute is a branch of the Jamaican Diaspora Foundation, established after the 2004 Jamaica Diaspora Conference and located in the Mona School of Business and Management at the University of the West Indies (Kingston, Jamaica). Jamaica DiasporaConnect, "About Us."

19 Jamaica Diaspora Institute, "Diaspora Youth Connect."

extensive research).<sup>20</sup> Moreover, the Ministry of Foreign Affairs and Foreign Trade has developed the “Returning Residents Program,” which consists essentially of an import tax exemption for household and personal items for returnees. The status of ‘Returning Resident’ is awarded to all Jamaicans that comply with three requirements: being at least 18 years old, having lived abroad for 3 consecutive years, and returning to Jamaica to reside permanently.<sup>21</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Jamaica has neither mandatory conscription nor social service.<sup>22</sup> Furthermore, only residents must pay taxes in Jamaica. Therefore, Jamaicans living permanently abroad do not have any legal or fiscal obligation towards the Jamaican state.

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## EXIT AND TRANSIT POLICIES

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Jamaica passed the Trafficking in Persons (Prevention, Suppression and Punishment) Act in 2007. This piece of legislation created the instruments to combat human trafficking in Jamaica. Based on this act, the country has carried out diverse activities that fall under the category of exit and transit policies. For instance, between 2012 and 2013, the Ministry of Justice tried to raise awareness of the issue by conducting public education campaigns through media (radio programs, Facebook campaigns etc.) and training in human trafficking detection for officials involved in the management of migration.<sup>23</sup>

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## SOCIAL POLICIES

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Non-resident Jamaicans cannot participate in the Jamaican healthcare system from abroad.<sup>24</sup> However, they can make social security contributions and receive a pension in their country of residence, but only if they reside in a

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20 The University Council of Jamaica, “Credential Assessment & Recognition.”

21 Jamaican High Commission, “Returning Residents FAQs”; Ministry of Foreign Affairs and Foreign Trade, “Returning Residents Information Booklet.”

22 Central Intelligence Agency, “Jamaica.”

23 Ministry of Justice Government of Jamaica, “Combating Trafficking in Persons in Jamaica.”

24 Jamaica Information Service, “Social Security Reciprocal Agreements at Disapora Conference.”

country that has signed an agreement with Jamaica (United Kingdom, Canada, Quebec and the countries members of the CARICOM community<sup>25</sup>).<sup>26</sup> The National Insurance Scheme does not include unemployment benefits.

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### SYMBOLIC POLICIES

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Jamaica organizes conferences abroad that target emigrants every two years. The conferences are organized by the Ministry of Foreign Affairs and Foreign Trade and focus on a topic of interest to the diaspora. The theme of the last conference, held in 2015, was “Jamaica and the Diaspora: Linking for Growth and Prosperity” and focused on investment possibilities for emigrants.<sup>27</sup> Furthermore, Jamaica organizes the annual “Governors-General’s Achievement Awards-Diaspora.” These awards target Jamaican emigrants that have made an important contribution to the Jamaican diaspora.<sup>28</sup> Jamaica also celebrates the ‘Diaspora Day’ every June 16.

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25 Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Montserrat, St Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, and Trinidad & Tobago.

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# MEXICO

As Mexico is a federal state, in order to present a truly complete picture of the country's emigrant policies, it would be necessary to revise the laws and policies of all 31 states of the federation. This report focuses on the federal level and includes information on sub-national entities non-exhaustively and only for further illustration.

Approximately 98% of Mexican emigrants are in the United States, followed by Canada with 0.5% and Spain with 0.4%.<sup>1</sup> Mexicans residing elsewhere tend to be more educated and active in political associations and are less likely to make use of policies of assistance and protection, so most emigrant policies are developed for implementation through the extended consular network of the Mexican state in its North American neighbors.<sup>2</sup>

The large number and variety of Mexican policies towards emigrants reveals something about the image that the state projects to its emigrants, and more directly, about the direction of emigrant policies. The growth of these policies has been concentrated in the last 25 years and runs parallel to the deepening of economic integration between the economies of Mexico and the United States since the presidency of Carlos Salinas de Gortari (1988-1994). Several historical studies suggest that the economy was a factor contributing to the abandonment of the "policy of no policy" in favor of attention to emigrants.<sup>3</sup> Mexican migration to the United States is nothing new, but until the early 1990s it had been "localized and marginal to the life of the country as a whole."<sup>4</sup> However, the economic integration of North America had immediate effects on the mobility of the Mexican population to the United States in two ways: it grew exponentially and became diversified.

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1 Consejo Nacional de Población, "Anuario migración y remesas 2014."

2 SRE, "Estadística de la población mexicana en Estados Unidos." And "Mexicanos en el mundo 2014."

3 Délano, *Mexico and Its Diaspora in the United States*. Changes in the Mexican government's policies toward the 30 million Mexican migrants living in the United States highlight the importance of the Mexican diaspora in both countries given its size, its economic power, and its growing political participation across borders. This work examines how the Mexican government's assessment of the possibilities and consequences of implementing certain emigration policies from 1848 to 2010 has been tied to changes in the bilateral relationship, which remains a key factor in Mexico's current development of strategies and policies in relation to migrants in the United States. Understanding this dynamic gives an insight into the stated and unstated objectives of Mexico's recent activism in defending migrants' rights and engaging the diaspora, the continuing linkage between Mexican migration policies and shifts in the U.S.-Mexico relationship, and the limits and possibilities for expanding shared mechanisms for the management of migration within the NAFTA framework.

4 Calderón Chelius, *Los superhéroes no existen. Los migrantes mexicanos ante las primeras elecciones en el exterior*, 18.

Under president Ernesto Zedillo (1994-2000), constitutional reforms of great importance facilitated the preservation of citizen rights for Mexicans beyond the country's borders. The two most important examples of this were the law of "no loss of Mexican nationality" and the opening of the possibility of regulating the extension of franchise from abroad, though this was not yet the formal extension of suffrage itself. The justification for these reforms was not only economic and demographic: They occurred in a crucial transition period in which Mexico's Federal Electoral Institute was consolidating as an autonomous and independent institution to organize elections, with a reputation as a guarantor of transparent, credible elections.

Many experts believe that the fundamental change in Mexican state policy (especially in the symbolic dimension of policies towards emigrants) came under the presidency of Vicente Fox (2000-2006), which is when the bodies for emigrant policy administration acquired their current form.<sup>5</sup> According to Calderón Chelius, the effect of Fox's policies towards emigrants, especially the impulse given to external voting, was felt in the majority support of Mexican emigrants for the PAN in the first elections in which emigrants could vote, in 2006.<sup>6</sup>

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

In Mexico, a distinction is made between nationality and citizenship: While nationality is a link between the individual and the state, citizenship is attributed to that part of the population that has the full exercise of political rights and obligations. Mexican nationality is granted to those born in Mexico or born abroad to Mexican parents.<sup>7</sup> However, citizenship, which is the condition that habilitates electoral rights, is acquired when one is a Mexican national, over 18 years of age and has an "honest way of living."<sup>8</sup>

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<sup>5</sup> As a child of foreigners born in Mexico, Fox, from the conservative National Action Party (*Partido Acción Nacional, PAN*), had won the right to run for president through a reform of Article 82 of the Constitution in 1993, which followed an amendment to the Constitution of the state of Guanajuato, where he had been governor. Fox had had a personal experience making his way to being eligible for elected office from the local to the national level, by way of constitutional rulings that lifted restrictions on the political rights of persons of Mexican nationality through *jus soli* who had foreign parents.

<sup>6</sup> Ibid. 20.

<sup>7</sup> Congreso Constituyente, *Constitución Política de los Estados Unidos Mexicanos*, Art. 30.

<sup>8</sup> Ibid. Art. 34.

Obtaining reliable data on dual nationality is almost impossible as there is no obligation to inform the Mexican authorities if one has acquired another nationality. The state can only presume that a Mexican has acquired another nationality via other administrative processes.<sup>9</sup> For example, there are estimates based mainly on figures of foreign-born Mexicans who acquire Mexican citizenship via *jus sanguinis*. The National Population Council (CONAPO) estimated that in 2013 about 3 million of the 11.8 million Mexicans residing in the United States had dual nationality.

In Mexico, it is possible to hold dual nationality, but this only applies to Mexicans by birth (Mexico-born or naturalized by *jus sanguinis*). This means that foreigners who naturalize as Mexicans by residence must renounce their original nationality.<sup>10</sup> The Nationality Act, which entered into force in 1998, famously eliminated any procedure to waive Mexican nationality.<sup>11</sup> Dual citizenship applies to Mexicans of first and second generation. Subsequent direct descendants have access to a facilitated naturalization procedure by residence (less than 2 years).

Not only dual nationals face several restrictions on the exercise of their citizen rights; these apply even to Mexicans by birth. While citizens can vote and be elected in all popular elections,<sup>12</sup> some positions and functions are exclusively reserved for Mexicans by birth, who have no other nationality.<sup>13</sup>

A slightly delicate, but relevant issue related to dual nationality, is that Mexican immigrants in the USA who are eligible have received, in recent years, training at consulates to understand the process of naturalization there and successfully become US nationals.<sup>14</sup>

#### LOSS OF CITIZENSHIP/NATIONALITY

Nationality for Mexicans by birth cannot be lost through acquisition of another nationality, residence abroad, or for any other reason. Mexicans by naturalization, however, can lose citizenship by taking another nationality, passport, or residence for over 5 years abroad.<sup>15</sup> Citizenship can be lost by both categories of Mexicans for accepting or using titles of nobility from foreign

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9 Cámara de Diputados del H. Congreso de la Unión, *Reglamento de la Ley de Nacionalidad*, Art. 6.

10 Furthermore, naturalized Mexicans are restricted in their ability to take public positions for which Mexican citizenship is a requirement.

11 Cámara de Diputados del H. Congreso de la Unión, *Reglamento de la Ley de Nacionalidad*, Art. 16 and 17.

12 Congreso Constituyente, *Constitución Política de los Estados Unidos Mexicanos*, Art. 35.

13 Ibid. Art. 32; Cámara de Diputados del H. Congreso de la Unión, *Reglamento de la Ley de Nacionalidad*, Art. 16 and 17.

14 Gómez Leyva, "Lanzan campaña de naturalización de mexicanos en EU."

15 Congreso Constituyente, *Constitución Política de los Estados Unidos Mexicanos*, Art. 37a, b.



governments; for voluntarily providing services, official duties to a foreign government or receiving foreign decorations without permission of the Federal Executive.<sup>16</sup>

### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

There is no restriction on the exercise of civil rights of Mexican citizens by virtue of residence abroad. The only difference is positive: in addition to the standard identity documents (passport, birth certificate, or voter ID card) issued for Mexicans in Mexico, emigrants may have a further identity document, the *Matrícula consular*, in order to certify their identity, nationality, and residence within the consular circumscription of the issuing consulate. The Mexican Congress mandates that all Mexicans may apply for it irrespective of their migratory legal status at the consulate closest to their place of residence abroad.<sup>17</sup> The issue of this document requires three security checks and has become very important for Mexicans in the USA who want to prove their identity.

### SUFFRAGE

The great challenge for a comparative analysis of the vote of Mexicans living abroad, not only in the frame of this book's cross-sectional perspective, but for longitudinal ones, is to incorporate policy innovations regarding political rights at the sub-national level. Two examples of this are the states of Michoacán and Zacatecas. Since 2007, Michoacán has allowed citizens abroad to vote in local elections. In Zacatecas, the popularly called "migrant law" (a constitutional reform) gave representation in the state congress for Zacatecanos who have emigrated; one seat in the state parliament is reserved for a *diputado migrante*. For this seat dual nationality is recognized and the residence requirement is mitigated by redefining residence as a binational condition. This is incongruous with federal laws, since no direct political rights are recognized to dual nationals.

During the 2012 election campaign, the then Federal Electoral Institute (*Instituto Federal Electoral, IFE*), now National Electoral Institute (*Instituto Nacional Electoral, INE*), designed and implemented a strategy to promote external voting by taking advantage of the organizational capabilities of Mexicans living abroad. The campaign included not only traditional media and information booths, but also a digital strategy through social networking and a microsite to inform Mexicans living abroad about the procedure to vote.<sup>18</sup>

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16 Ibid. Art. 37c.

17 Cámara de Diputados del H. Congreso de la Unión, *Reglamento de la Matrícula Consular*.

18 IFE, "Informe Final del VMRE. Proceso Electoral 2011-2012." 40.

Regarding the participation of Mexican emigrants who are USA nationals, Mexican consulates have also offered their space for workshops organized by civil society organizations on voter registration of USA electoral processes so that they can exercise their electoral rights in that polity.

### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Looking back at the original enfranchisement of Mexicans abroad, it is worth noting that the reform that accomplished this came at the eighth attempt. The seven previous failed proposals had accompanied the development of more agencies and institutions to deal with emigrant policies. An inter-party agreement and a coalition between the *PRI* and *PRD* was crucial, allowing the project to pass referrals in legislative committees.<sup>19</sup>

The current state of regulations for the external vote barely reflects the level of updates, investments in assessment, evaluations, feedback, and control that followed the first election in 2006, and the second in 2012.<sup>20</sup> Between those elections, the *IFE* also readjusted its budget to more realistic turnout expectations and in turn it reallocated money to cover the cost of registered mail worldwide for the 2012 elections. Also, the requirement to provide proof of residence was eliminated, which was very difficult to fulfill for migrants who share housing with others or had no bills in their own name. These improvements were made through administrative readjustments and did not require a full-fledged electoral reform.

The General Law of Electoral Institutions and Procedures (*Ley general de instituciones y procedimientos electorales*, *LGIPE*) radically reformed the procedures for voting abroad.<sup>21</sup> This decree, which entered into force in May 2014, includes many changes in the administration and organization of elections. Besides the right to vote in presidential elections, which has been implemented twice, Mexicans abroad will now be able to vote for state governors, special representatives in some legislatures, and senators in those states that allow it in their constitutions and electoral laws.<sup>22</sup> Also, consulates and embassies are

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19 Tony Payán und Gregory Schober, “A brincos y sombrerazos: la gestión política del voto mexicano en el extranjero en la Cámara de Diputados.”, *Nóesis. Revista de Ciencias Sociales y Humanidades* 16, Nr. 31 (2007): 167-68.

20 Blanco y Fornieles et al., “Análisis jurídico, técnico, organizativo y presupuestal de las alternativas sobre el voto de los mexicanos residentes en el extranjero que presenta el Comité Técnico de Especialistas creado por acuerdo CG753/2012.”

21 Cámara de Diputados del H. Congreso de la Unión, *Ley General de Instituciones y Procedimientos Electorales*.

22 States that allow their emigrants to vote for state governors are, as of July 2016: Aguascalientes, Baja California Sur, Colima, Distrito Federal, Estado de México, Guanajuato, Guerrero, Jalisco, Michoacán, Morelos, Oaxaca, Puebla, and Zacatecas. See “Preguntas Frecuentes - Voto de los mexicanos residentes en el extranjero.”

now able to issue voter IDs (previously only possible in Mexico) up to 90 days before the election for the incorporation of voters into the electoral roll for Mexicans abroad.<sup>23</sup> This reform also facilitated registration on the voters list for foreign residents, and allowed electronic voting as well as voting at embassies and consulates for presidential elections.

As for the right to vote for state legislatures, before 2014, the previous electoral law did not include voting rights for foreign residents below national elections. Thus, another innovation from the electoral reform of 2014 is the enfranchisement of non-resident Mexican citizens for the Senate. This right is enunciated generally, in contrast to the right to elect governors, which depends on the state constitutional regulation (i.e. this falls within the competence of the states to regulate further).<sup>24</sup> At the sub-national level, states of the Mexican federation are free to legislate with respect to direct democracy mechanisms, whether plebiscites, referendums, popular initiatives, or consultations.

Still, the 2014 *LGIPE* came to recognize that state executives (governors and heads of government) of the Federal District - now Ciudad de México<sup>25</sup> - may also be elected from abroad, which had been practiced since 2007 in several states of the federation in a legal vacuum from the perspective of federal regulation. As mentioned above, however, exceptions and deviations remain between levels regarding the electoral rights of Mexicans living abroad. At least three states (see “Candidacy Rights of Non-Residents”) grant active and sometimes passive electoral rights to emigrants in their legislatures and not only, as the *LGIPE* states, for their executives and senators in the national Congress.<sup>26</sup>

In Mexico, voting is a civic duty, but there is no penalty for non-voters. For residents abroad, no additional restrictions apply for voting.

Mexico does not hold national referendums.

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23 Cámara de Diputados del H. Congreso de la Unión, *Ley General de Instituciones y Procedimientos Electorales*, Art. 329: 1, 2.

24 Ibid. Art. 129.

25 As of January 29, 2016, the Federal Constitution was reformed so that the Distrito Federal (Federal District) changed its name to Ciudad de México (Mexico City); however, at the moment of writing, both names are still used in laws and regulations.

26 In at least two states (Chiapas and Zacatecas) there is a growing recognition of „bi-national residence“ as a legal status that reduces, waives, or qualifies the residency requirement to exercise political rights. The state of Zacatecas was a pioneer in this regard, allowing Zacatecans to simultaneously maintain residence abroad and within Zacatecas; LV Legislatura de Zacatecas, *Constitución Política del Estado Libre y Soberano de Zacatecas*, Art. 12.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Under federal law, Mexicans living abroad cannot be candidates for any elected office. However, important exceptions exist at the sub-national levels. As explained above, some states in Mexico have created seats in their legislatures under an innovative figure of special representation: *candidato migrante*.<sup>27</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Once Mexicans living abroad have registered on the *LNRE*, they cannot vote in Mexico. In the last presidential election, they could vote only by post. In future elections, it is expected to be possible to vote in person at embassies and consulates (enabled as polling stations) and to vote electronically via internet, in addition to voting by post.<sup>28</sup>

### REGISTRATION FOR FRANCHISE

In contrast to Mexicans in Mexico, who are enfranchised upon obtaining voter ID, residents abroad must actively register by requesting to be entered in the *LNRE*.<sup>29</sup>

### MODE OF REPRESENTATION

The votes of nonresidents are counted separately from votes cast in Mexico, but for the purposes of electing representatives, they are combined with those of the country in a local district with which the voter has a biographical connection (place of residence, birthplace, place of parental origin).<sup>30</sup>

### EXTERNAL VOTING IMPLEMENTATION

All provisions for external voting have been implemented, save for the recently approved voting procedures (from the May 23, 2014 reform) for which specific regulations are required, including pilot testing and international certification agencies (i.e. internet voting). Budgets and new administrative units are still being planned for implementation.

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27 This exists in three states: Chiapas, Guerrero, and Zacatecas. Currently there is a bill to create these seats in Jalisco. To continue with the example of Zacatecas, there is no restriction for elected office for naturalized Mexicans and Zacatecanos of binational residence may even be elected to local government councils (*ayuntamientos*); Ibid. Art. 51; Congreso de Zacatecas, *Ley Electoral del Estado de Zacatecas*, Art. 5: VII.

28 Cámara de Diputados del H. Congreso de la Unión, *Ley General de Instituciones y Procedimientos Electorales*, Art. 329; 2.

29 Ibid. Art. 330 and 331.

30 Ibid. Art. 140.

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## REGULATION OF POLITICAL COMPETITION

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There is no explicit prohibition of holding offices abroad, but campaign financing abroad is strictly prohibited, as is any activity or proselytism during electoral campaigns in Mexico.<sup>31</sup>

### PARTY OFFICES IN HOST COUNTRIES

Any political campaign abroad is prohibited during election periods and the activities of political parties abroad are strictly regulated. However, there are news reports of the *PAN* opening offices in Illinois.<sup>32</sup> These are called *Casas del migrante*, and while they are not supposed to be used for proselytizing or campaigning, they are run by party members. There is also a document regulating the basic formal structure of *PAN* offices in the USA, adopted in 2005 at a *PAN* convention in the USA.<sup>33</sup> In fact, despite the explicit prohibition on receiving money from people or organizations abroad or conducting electoral campaigns abroad there is strictly speaking no legal contradiction: Parties may receive in-kind donations, including real estate (i.e. an office), donated by a Mexican national (e.g. the prohibition of donations applies to foreign organizations or persons).

### POLITICAL CAMPAIGNS ABROAD

Political campaigning abroad is prohibited.<sup>34</sup>

### POLITICAL PARTY MEMBERSHIP ABROAD

Mexican political parties are free to regulate membership as they see fit. In general, Mexicans abroad can be members so long as they pay their membership dues. Regarding domicile and residence requirements, party statutes refer to the official regulations for particular candidacies. For example, the *PRI* states that for local elections, potential candidates must be party members for at least three years and maintain a residence that satisfies the requirements of the respective legislation.<sup>35</sup>

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31 Ibid. Art. 353.

32 Bravo Mena, "El PAN en EU- El Universal - Editoriales."

33 Asamblea Fundacional de Acción Nacional en EUA, "Normas mínimas para el funcionamiento de la estructura del Pan en los EUA."

34 Cámara de Diputados del H. Congreso de la Unión, *Ley General de Instituciones y Procedimientos Electorales*, Art. 353.

35 Partido Revolucionario Institucional, "Estatutos del Partido Revolucionario Institucional," 91. See also Partido de la Revolución Democrática, "Estatuto," 98.

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## INSTITUTIONAL PARTICIPATION

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The National Coordination of Migrant Deputies in Mexico (*Coordinación nacional de diputados migrantes de México, Conadim*) was established to “promote policies in favor of this social group” and brings together members of different state legislatures and legislative committees of the federal congress, migrant representatives residing in the USA, and researchers.<sup>36</sup>

### NATIONAL CONSULTATIVE BODIES

In Mexico, locating the proper consultative body that includes emigrants in policy making is not an easy task because of the misnomers in the titles of different bodies. There is a consultative body representing migrants at the national level of government, but it is not the National Council for Mexican Communities Abroad (*Consejo nacional para las comunidades mexicanas en el exterior, CNCME*), as the name would suggest. *CNCME* is a body of inter-institutional coordination that will be described below (see “Home Administration”), together with the Institute of Mexicans Abroad (*Instituto de los Mexicanos en el Exterior, IME*). The proper body for consultation with Mexican emigrants is the Advisory Council of the Institute of Mexicans Abroad (*Consejo consultivo del instituto de los Mexicanos en el exterior, CCIME*).

The *CCIME*’s main tasks are to maintain a systematic and constructive dialogue with communities of Mexican emigrants, and to make specific recommendations to the government on how to improve their quality of life. It is organized into committees devoted to topics such as health, education, outreach and media, legal issues, border issues, economic affairs, business, and political affairs. It is consulted twice a year and may also be convened in exceptional sessions if required. It consists of over 100 members and is renewed every three years, without the possibility of immediate reelection. Members are appointed “by consular district or trajectory.”<sup>37</sup> Among them are up to 8 representatives of associations of Mexicans abroad. The leadership of the council falls on the board of *CCIME*, which is comprised of the director of *IME* and the heads of each *CCIME* committee. *CCIME* meetings serve as forums that include more than a hundred representatives of emigrants, con-

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<sup>36</sup> López, “Alistan Congreso de Migrantes, Quadratín”; Martínez, “Integran Coordinación Nacional de Diputados Migrantes.”

<sup>37</sup> Both paths are quite complex and subject to different regulations. The selection by consular district opens up the possibility for democratic elections by the emigrants who reside within a consular district. The selection by trajectory aims to capture community leaders. The detailed guidelines can be found on the *IME*’s website and are under constant critique for their improvement. See Instituto de los Mexicanos en el Exterior, “Convocatoria Renovación *CCIME* aprobada para el 2012-14.”

gressmen, state ministers, and senior bureaucrats. It serves as a platform to propose new directions for emigrant policies and specific legislation.<sup>38</sup>

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## ADMINISTRATION

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### CONSULATES

As of 2014, there were 148 Mexican representations (embassies and consulates) in the world. Of these, 67 were consulates; 51 of which are in the USA and 6 in Canada. This is separate from the 160 honorary consulates. In addition, Mexico has mobile consulates and “consulates on wheels” to bring consular services closer to communities of Mexicans far from consular representations. These are installed either in the spaces of community organizations (e.g. churches, schools), or inside vehicles. Additionally, consulates have opened new regular office hours on Saturdays and Sundays to extend their availability to the community in the USA.<sup>39</sup> A new technology platform in 141 consulates around the world has been created to record, store, and prepare documents and manage consular services more swiftly.

The catalogue of standard services offered by consulates grew significantly since the *Matrícula consular* started being issued. Furthermore, the registration system to collect information on Mexicans travelling or living abroad became centralized and uniform thanks to the Registration System for Mexicans Abroad (*Sistema de registro para los mexicanos en el exterior*, SIRME), created in 2011. Another improvement of the consular services is due to the Special Platform for the Attention to Indigenous Migrants (*Plataforma especial de atención a migrantes indígenas*), which establishes a directory of speakers and voluntary interpreters of indigenous languages for better assistance and protection of this population, who are especially vulnerable in the USA and Canada. To register, applicants must only demonstrate that they are Mexican nationals through a document or an interview with the consul.

Mexican consulates offer legal, financial and, in some cases, psychological consultations.<sup>40</sup>

Mexico has various programs that specialize in legal and judicial protection, beyond the general protection services of consulates. The funds used

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38 CCIME, “XIII Reunión Del CCIME.”

39 SRE DGPAC, “Informe de actividades de la Dirección General de Protección y Asuntos Consulares.”

40 Some consulates (e.g. Alaska) offer psychological consultations through their *Ventanilla de salud* (see below, under Social Policies) providing information and channeling migrants to get affordable help in cases of depression and other psychological problems; Consultation with former Mexican consul to Alaska, currently consul in Berlin, interview November 14, 2014.



for these consultancies come from the Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*, SRE) and go specifically to pay for one-hour consultations in different areas of law for migrants otherwise unable to afford legal counsel. The consulates carry out a pre-screening of the migrants who apply, as it should be directed to migrants who cannot afford legal counsel themselves. These programs include: the *Programa técnico jurídico especializado*, which focuses on high impact litigations and collective litigation; the *Programa de abogados consul-tores*; the *Programa de Asistencia Técnica Jurídica a Casos de Pena de capital en EE.UU.*<sup>41</sup>

Mexico has a voluntary repatriation program besides the repatriation programs for vulnerable persons, and corpses.<sup>42</sup>

Regarding financial education, the *Tu dinero, tu futuro, semana de educación financiera en Estados Unidos y Canadá* program is organized jointly by 50 consulates and 482 local partners that collaborate to organize workshops and seminars to educate Mexicans on programs to make investments, get loans, and open accounts.<sup>43</sup>

Beyond legal, financial, and psychological consultancy, the consular network has extended its classical services in other areas. The *Plazas comunitarias* serve as community centers that provide information on all programs directed to emigrants. They provide remote education services (literacy courses, primary and secondary schooling, informal education, English as a second language, courses on cultural topics, and technical and computer training) and health information mainly with a focus on prevention but also regarding affordable and secure healthcare that does not endanger the stay of undocumented migrants. The manpower for this is provided mostly by local NGOs, while consulates work as organizers, hosts, and connectors.<sup>44</sup>

Importantly, since the Deferred Action for Parental Accountability and the expanded Deferred Action for Childhood Arrivals (administrative measures of the Obama administration to regularize the status of millions of undocumented immigrants) were announced in 2012, the Mexican consulates and their networks of partner institutions have promoted information campaigns, seminars, workshops, and specialized legal counseling services. They also collaborate with consulates of Central American countries.<sup>45</sup>

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41 Alma Arámbula and Gabriel Mario, "Protección consular a los mexicanos en el exterior," 21-22.

42 The Program of Voluntary Repatriation has been implemented intermittently over the last years to bring Mexicans back to their communities of origin when they voluntarily express a desire to return. This is part of a memorandum signed by the governments of the USA and Mexico since 2004; Secretaría de Relaciones Exteriores, "Informe de Labores de la SRE 2012", 221.

43 IME, "Lazos Económicos n°16."

44 INMUJERES, "Directorio de Servicios a los Migrantes 2014."

45 Délano, "Migrants' Countries of Origin Will Play a Key Role in the Success of



## HOME COUNTRY ADMINISTRATION

Beyond the General Directorate for the Protection of Mexicans Abroad, which holds the third rank in public administration and is incorporated into the Ministry of Foreign Affairs (*SRE*), the administration and development of policy towards Mexican emigrants rest mainly on three interconnected institutional pillars: *IME*, *CNCME*, and *CCIME*.

As mentioned above, *CNCME* is an organ of inter-institutional coordination of emigrant policy, with the task to facilitate implementation (i.e. not consultation, recommendation, or developing guidelines or courses of action). It has the right of initiative and its consultation is mandatory twice a year. However, as stated above, *CNCME* does not have any direct representation of migrants (unlike the *CCIME*, see above). Yet, its questions, initiatives, and recommendations must be addressed by the government agencies responsible for implementing the respective policies.

In terms of design, development and implementation of emigrant policies, the most important state agency is the *IME*, a decentralized administrative body loosely incorporated under the Ministry of Foreign Affairs, with its own budget, responsible for the implementation of emigrant policies.<sup>46</sup> The *IME* operates through diplomatic and consular representations of Mexico around the world. The head of the *IME* is appointed by the President of the Republic on the recommendation of the Secretary of Foreign Affairs. However, it is important to point out that the *IME* does not set its own guidelines. Instead, it must follow the guidelines produced by the *CNCME*, and the counsel and recommendations produced by the *CCIME*.<sup>47</sup>

Currently, the *IME* aims to incorporate the perspective of the specific communities it seeks to serve. The current *IME* is the result of a long process of experimentation with extending public services to serve the emigrant community. At the federal level, this process started in 1990, but gained more resources from the administration of President Vicente Fox (2000-2006) onwards.<sup>48</sup> A milestone in the development of state structures in Mexico to administer the many emigrant policies,<sup>49</sup> the *IME*'s creation by decree in 2002-3 did not come out of the blue, it replaced (and absorbed in terms of staff and resources) both the Program for Mexican Communities Abroad (created in 1990) and the Presidential Office for Mexicans Abroad (*Oficina de la presidencia para los Mexicanos en el extranjero*, *OPME*).<sup>50</sup>

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Obama's Executive Actions."

46 Manuel Espinoza Barragán, *Lineamientos de derecho público mexicano*, Tijuana, Baja California: Cárdenas, 1986: 141.

47 Presidencia de la República, *Decreto por el que se crea el Consejo Nacional para las Comunidades Mexicanas en el exterior*.

48 González Gutiérrez, "La diplomacia de México ante su diáspora," 199.

49 González Gutiérrez, "Del acercamiento a la inclusión institucional," 200.

50 Délano, *Mexico and Its Diaspora in the United States*. 201-202.

In Mexico, the first government agencies aimed at managing policy towards migrants were created at the sub-national level. The National Coordination Office for Attention to Migrants (*Coordinación nacional de oficinas de atención a migrantes*) was the first office for the coordination and exchange of information across agencies of different federal states.<sup>51</sup> These sub-national offices have had different ranks in public administration. The creation of a federal administrative unit has not replaced or subsumed the administrative units of state governments under its central authority, but merely homogenized them to a certain extent. Unlike IME's subordination to the Ministry of Foreign Affairs at the federal level, however, they are dependent on other agencies.<sup>52</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

Several programs seek to reduce the costs of remittances, for example, *Directo a México* or *Corredores financieros*, both of which work to facilitate the flow of remittances from and to 15 localized places.<sup>53</sup> The importance of facilitating the flow of remittances is obvious in Mexico: In 2007 alone, remittances from overseas workers amounted to 71.3% of total foreign investment, 95.8% of FDI, 8.8% of total exports, 55.7% of oil exports, and exceeded more than three times the value of agricultural exports.<sup>54</sup>

### INVESTMENT

Mexico has been a pioneer in the development of programs to channel remittances to productive projects: The *3x1* program works with donations from *clubes de oriundos* (commonly known as Hometown Associations, HTAs) and migrant federations (i.e. HTA conglomerates), matching them with federal, state, and municipal government funds: for every dollar sent by migrants, the other 3 levels each contribute a dollar. The program has a long tradition and history of upward development from the local to the federal level until it took its current form in 2002. By 2006, the project was extended to 26 states of the Republic with the participation of over 1,000 migrant associations that have joined the state to fund 6250 projects with an average federal investment of

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51 Barbosa and Alarcón, "Emigration Policy and State Governments in Mexico," 178.

52 For example, since January 1, 2013, the Institute of Migrant Care in Guanajuato is subordinated to the Ministry of Social Development (*Secretaría de Desarrollo Social, SEDESOL*).

53 IME, "Remesas Directo a México"; FINAMIGO: Financiera Mexicana para el Desarrollo Rural, "89 Jornada Informativa Del IME"; IME, "Lazos Económicos."

54 Maya and Gil, "Remesas, desarrollo regional," 97.

\$15 million annually.<sup>55</sup> By 2014, the program had been implemented throughout the country by the Ministry of Social Development.

The *Paisano invierte en tu tierra* program intends to connect remittances with rural and agricultural development. The target audience is entrepreneurs who want to start businesses with the remittances they send to generate wealth and create sources of employment in their areas of origin. It grants loans to allow emigrants to invest in Mexico, provided they have a co-investor/co-signer in Mexico.<sup>56</sup> The project aims to turn emigrants into prominent actors in the development and capitalization of the Mexican countryside. It specifically creates conditions for the remittance-receivers to transform their economic dependence and for senders to become productive partners. The projects funded may be agribusiness, agro-tourism, organic certification, and greenhouses.<sup>57</sup>

The *Tu vivienda en México* program promotes the purchase of homes in Mexico among the Mexican population abroad. Participating agencies are: the IME; the *Comisión Nacional de Vivienda* (CONAVI); the *Sociedad Hipotecaria Federal* (SHF), private enterprises through the *Sociedades Financieras de Objeto Limitado* (SOFOLES) and housing developers.<sup>58</sup>

The *EMPLEO: Employment, Education & Outreach* program is a partnership between government agencies, consulates of various countries and NGOs in Southern California to provide legal assistance to Mexicans in the USA on labor issues related to abuse in their workplace, regardless of their immigration status.<sup>59</sup>

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

It can be estimated that approximately 7% of Mexican emigrants have graduate or professional degrees in 2014.<sup>60</sup> These highly educated emigrants are scattered throughout the world, in contrast to the concentration of low-skilled Mexicans in North America. As of June 2015, the Global Network of Highly Qualified Mexicans Abroad (*Red Global de Mexicanos altamente calificados en el exterior*), had 40 chapters with 4,000 members around the world with representations in 19 countries.<sup>61</sup> The purpose of the network is to serve as a platform for highly skilled Mexicans to connect with one another, collabo-

55 Fernández de Castro, García Zamora, and Vila Freyer, *El programa 3x1 para migrantes*.

56 SRE, IME, and CONDUSEF, “Sácale provecho a tus remesas,” 15.

57 Ibid. 11.

58 IME, “¿Cómo funciona ‘Tu vivienda en México.’”

59 IME, “X aniversario del programa empleo: Employment, Education & Outreach.”

60 Consejo Nacional de Población, “Anuario migración y remesas 2014,” 39.

61 Agencia de noticias del Consejo Nacional de Ciencia y Tecnología (Conacyt). Información mexicana de los desarrollos científicos y tecnológicos, “Red Global MX: Talento Mexicano en el Exterior.”

rate, and also to establish links to business sectors that generate high added value to help Mexico better integrate into the global economy and in particular, the “knowledge economy.” It works thanks to the collaboration of the SRE through the IME and the National Council for Science and Technology (*Consejo nacional de ciencia y tecnología*, CONACyT), which sets the priority areas, and has the support of embassies, consulates, and the US-Mexico Foundation for Science for its operation.<sup>62</sup>

As a brain-gain program targeting emigrants, Mexico has the *Programa de apoyo complementario para la consolidación institucional (fondo institucional) repatriación y retención*, which seeks to encourage the incorporation (“retention”) of Mexican researchers who are in the country without affiliation or tenure in Mexico and the return (“repatriation”) of Mexican researchers abroad who have a PhD and a consistent track record. There is a fund of up to \$MXN450,000 per year for researchers who enter public institutions.<sup>63</sup> For researchers joining private universities, the maximum amount CONACyT grants is 50% of the total amount stated above while the institution hosting the applicant must be ready to cover the remaining 50%. The application must be submitted by institutions of higher education or research centers.<sup>64</sup>

### RETURN POLICIES

Notably, among the many Mexican economic policies towards emigrants, none encourages return. Although some emigrant policies (especially economic policies regarding investment in agribusinesses and return of academics and scientists) have been designed with a view towards making return easier, no policy is aimed explicitly towards return. However, there are campaigns to make the journey easier and safer (see below the *Programa paisano bienvenido a casa*), but there is no general campaign to give incentives to return, or even to facilitate reintegration of Mexicans who have returned.

Regarding the recognition of titles and qualifications obtained abroad, Mexico has bilateral agreements with 8 countries for the automatic recognition of qualifications: Argentina, Chile, China, Colombia, Ecuador, Guatemala, Paraguay, and Spain. For titles acquired in any other country there is a procedure for the recognition of studies and qualifications: The lead agency is the Ministry of Education. This process may take 30 business days and is the same for foreigners and Mexicans who have studied abroad. An Apostille from the country where the degree was acquired is required for registration and recognition of titles and qualifications.<sup>65</sup>

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62 IME, “Capítulos de la Red Global MX.”

63 This includes up to \$MXN350,000 as complementary support to the incorporation of the researcher and up to 100,000 as complementary support for the research. And up to \$MXN50,000 for travel and installation expenditures.

64 CONACyT, “Repatriaciones y retenciones.”

65 Secretaría de Educación Pública, “Cuadro informativo sobre registro de estudios

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## OBLIGATIONS

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In general, Mexico has made citizen obligations less stringent on emigrants, but opened paths to fulfill them through the consular network. Fulfilling them is irrelevant to the enjoyment of citizen rights as emigrants, but relevant in case Mexicans want to return to Mexico.

### MILITARY SERVICE, SOCIAL SERVICE, TAXES

The obligation for military service begins when the citizen turns 18 years of age, at which time, registration is required, whether in Mexico or abroad. Mexicans living abroad who had not previously registered may defer at a Mexican embassy or consulate. If they fail to do so, they will be deemed reluctant to serve. Deferral is granted for up to 5 years living abroad. In peacetime, Mexicans by birth who have acquired another nationality are not obligated to serve, providing they go to the nearest Mexican embassy to obtain their exemption.<sup>66</sup> Moreover, according to the *SRE*, the military service document (*cartilla militar*) has ceased to be a requisite to issue a passport, so it is less fundamental an obligation for Mexicans abroad, as long as they do not intend to return (since many employers require that document).<sup>67</sup>

Social service is a temporary activity undertaken by students and interns (be they Mexican or foreign) of Mexican schools and is only mandatory for those who have received secondary or higher education in Mexico and want to get a recognized degree/title to practice their profession. Students and trainees of any nationality who have studied at a technical, upper secondary or undergraduate level in Mexican institutions, but reside abroad, may perform social service or internship in the representations of Mexico abroad (consulates and embassies).<sup>68</sup>

Regarding an obligation to pay taxes, this applies only to residents abroad (national or non-national) whose profits, salary, or gains come from a source in Mexican territory.<sup>69</sup>

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y expedición de títulos y cédulas profesionales.”

66 Cámara de Diputados del H. Congreso de la Unión, *Ley del Servicio Militar, 1940 Reformada 1998*. Art. 5bis.

67 Secretaría de Relaciones Exteriores, “Modernización de la atención a los mexicanos en el exterior,” 46.

68 Presidencia de la República, *Reglamento de la Ley Reglamentaria del Artículo 5° Constitucional, Relativo al Ejercicio de las Profesiones en el Distrito Federal*.

69 LosImpuestos.com.mx, “Régimen de residentes en el extranjero con ingresos en México.”

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## CULTURAL POLICIES

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No evidence could be found of independent cultural centers that are managed and funded by the government of Mexico. However, there are cultural institutes, known as Institutes of Mexico (*Institutos de México*), which are partially funded by the Mexican government and attached to consulates in several cities around the world. These Institutes are non-profit organizations relying on private, corporate, and foundation support for their mission. For example, in 2011, the Institute in New York City received one third of its funding from the Mexican government.<sup>70</sup> In addition, Mexican embassies may have other types of cultural promotion spaces attached: cultural centers (Centro Cultural, in Guatemala, for example) or cultural spaces (Espacio Cultural, in Chile, Colombia and Uruguay). However, none of these spaces has Mexican emigrants as their explicit target.

The government has no other cultural programs explicitly directed to emigrants.

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## EXIT AND TRANSIT POLICIES

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There are neither political nor economic restrictions (e.g. exit fees) for Mexican citizens, nor are there any campaigns to discourage emigration. There are, however, some transit policies.

The *Paisano, bienvenido a casa* program is an information campaign to inform Mexicans thinking of leaving the country (to the USA, in particular) on the citizen rights and duties (i.e. not human rights) that they as Mexicans enjoy despite living outside of Mexico, in addition to the best routes and safe travel tips. The program began in the 1980s, when a group of civil associations of Mexican-Americans demanded that the government of Mexico combat abuse, extortion, theft, and corruption by federal border authorities. Since 1995, the importance of the program was raised with the aim of “dignifying the work of Mexicans abroad.” Today, more than 20 federal agencies and departments work together through an inter-ministerial commission with a special budget from the National Institute of Migration (i.e. not the IME).<sup>71</sup> It is worth mentioning that although Paisano provides no incentives to return, it works as a general information campaign in many indigenous languages that includes many important issues and a catalog of policies designed specifically for migrants wanting to return to Mexico.

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70 The Mexican Cultural Institute of New York, “Annual Report 2011.”

71 Instituto Nacional de Migración, “Programa Paisano Del INM.”

There is also a directory of organizations led by the SRE in collaboration with the Ministry of Social Development to increase the transparency of the participating HTAs in the *3x1* program, through the promotion of their registration in the electronic *IME* directory of hometown associations.<sup>72</sup>

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## SOCIAL POLICIES

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### HEALTH

Mexicans living abroad can maintain benefits if their employment contract is Mexican because labor laws apply to Mexican contracts regardless of the place of residence. However, few are covered, since this applies only to people affiliated to public social insurance systems.<sup>73</sup>

With respect to pensions and retirement, Mexicans abroad have access to them under the same conditions as Mexicans resident in Mexico. However, as explained above, the coverage of these insurance systems is scant. The eligible must show up at the nearest consulate every six months to request a certificate of survival.<sup>74</sup> Recipients must also be willing to cover the costs of administrative expenses for the payment of pensions in Canada, Italy, Spain, and the USA, as the Mexican government does not have a social security or pensions agreement with them. Mexico offers no special retirement program for emigrants.

As for health insurance, it is not possible for emigrants to enter the public universal healthcare system. The public *IMSSS* and *ISSSTE* systems' coverage are greatly limited by the conditions of membership: formal employment and paid employer contributions. The *Seguro popular* is the first universal health insurance program that allows anyone to register and pay their individual contributions. However, the range of services covered remains minimal. Importantly, since 2012, emigrants may *pre-affiliate* to the *Seguro popular*, which means that emigrants can register their family members in Mexico (meaning that family members themselves complete the administrative process where they reside) and pay their family's contributions.<sup>75</sup>

For emigrants in particular, there are services like the *Ventanillas de Salud*, which are an ongoing service provided by US consulates, and the *Semana*

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72 Secretaría de Relaciones Exteriores, "Sistema de registro para mexicanos en el exterior."

73 These are: Institute of Security and Social Services for the State Workers (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, ISSSTE*) for public employees, the Institute of Social Security of the Mexican Armed Forces (*Instituto de Seguridad Social de las Fuerzas Armadas Mexicanas, ISSEAM*), and the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social, IMSS*) for other employees.

74 Consulado de carrera de México en Caléxico, "Supervivencias."

75 Gobierno del Estado de Guanajuato, "El seguro popular y los migrantes."



*binacional de salud*, the goal of which is to guide Mexicans in the USA through the services to which they have access. This is especially important for undocumented Mexicans in the USA and their families, who avoid seeking medical help for fear of being reported to immigration authorities and deported.<sup>76</sup>

### EDUCATION

Mexico has developed some policies in the field of education that conceive of a bi-national population that intermittently resides in Mexico and the USA and thus requires access to services in both countries. Several programs exemplify this at different levels of education. The *Programa binacional de educación migrante* (PROBEM), administered by the Ministry of Education, seeks to ensure equitable and continued basic education for children and young people spending part of the school year in Mexico and another part in the USA, thus offering the opportunity to enroll them in elementary or secondary schools at any time of the school year. A document recognized by both countries (*Documento de transferencia del estudiante migrante binacional*) makes this possible. The program is also an exchange program for teachers and encourages the hiring of Mexican teachers in US schools in order to teach children of Mexican origin who do not speak English.<sup>77</sup>

Also, the *B@UNAM* program allows for high school at distance (partly online) and is led and administered by the National Autonomous University of Mexico (*Universidad Nacional Autónoma de México*, UNAM). It is offered to Mexican emigrants in cooperation with the Ministry of Education and the IME.<sup>78</sup>

Furthermore, the *IME-BECAS* program, created in 2005, channels \$MXN10,000,000 yearly from the Mexican government to pay for education of Mexicans in the USA over 15 years old. It is operated at the local level by the consulates in a 3x1 financing scheme that includes government, academic institutions, and individual donors.<sup>79</sup>

On a level of minimal assistance, there are also programs traditionally administered by the consulates in their *Plazas Comunitarias*, which gather volunteers to teach Mexican emigrants how to read and write. There are other specialized programs of adult education and an elementary schoolbook donor program for Mexican children in the US.

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76 González Gutierrez, "La diplomacia de México ante su diáspora," 206.

77 Dirección general de relaciones internacionales Mexicanos en el exterior (Mexterior), "Programa de Intercambio de Maestros."

78 Universidad Nacional Autónoma de México, "B@UNAM :."

79 Gobierno de México, "IMEBECAS."



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SYMBOLIC POLICIES

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Given the density of policies towards emigrants in other dimensions, it is remarkable that there are so few symbolic policies. It is well known that Mexican emigrants have been “rehabilitated” in the discourse of recent Presidents,<sup>80</sup> yet this is not reflected in policy. No general communication campaign exists to strengthen ties between emigrants and Mexico, there is no explicit reference to migrants in the Constitution. There is no symbolic territorial entity alluding to emigrants beyond the territorial borders, even though Mexican migrants have pushed to reform the Constitution to create a sixth constituency that would give emigrants some representation in the National Congress, which would not, be symbolic, but a true unit representing their interests.<sup>81</sup>

There is no national-level celebration of a day of the migrant, even though the International Day of the Migrant has been recognized in Mexico and there are some very limited official celebrations.<sup>82</sup> There is no explicit inclusion of the diaspora in the national day of celebration (September 15, Independence Day).

The few symbolic policies that Mexico has for its emigrants are conferences and awards. There are often locally-organized conferences and workshops. Additionally, there are competitions in different branches of the arts (photography, film, poetry, and painting) designed specifically for Mexicans abroad that occur irregularly but frequently and always have the cooperation of several, mainly cultural, state agencies. The requirements are typically open and the technology required to participate remains basic in order to target a wider public.<sup>83</sup>

The Mexican government presents the *Ohtli* awards, its highest honor, to highlight the work of people committed to the development of Mexican communities. Eligible are Mexicans, Latinos, and their descendants born abroad who have dedicated most of their life and professional activity to ensuring that future generations of Mexicans have an easier path to walk (*Ohtli* means “path” in Náhuatl).<sup>84</sup> In each consulate or embassy, one *Ohtli*, consisting of a medal, a silver rosette, and a diploma, is awarded by the IME per year (374 have been awarded since 1996).

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80 See Délano 2011, Calderón-Chelius 2009. Beyond the symbolic references to “Mexico beyond the borders” in several speeches by President Fox (2000-2006), no significant symbolic institutions survived his presidency.

81 PROFMEX, “PROFMEX: Consorcio Mundial para la Investigación sobre México.”

82 Calderón, “El Día del Migrante en México.”

83 Instituto de los Mexicanos en el Exterior, “Éste es mi México 2015.”

84 Instituto de los Mexicanos en el Exterior, “Reconocimiento Ohtli.”

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## NICARAGUA

Nicaragua is characterized by a high degree of emigration with roots in economic distress and past political repression (i.e. dictatorship of the Somoza family and the civil war). The IOM estimates that between 600,000 and 800,000 Nicaraguans live permanently abroad (between 10-13% of the total Nicaraguan population). The majority of Nicaraguan emigrants reside in Costa Rica and the USA, however, there is a significant community of emigrants in Honduras, El Salvador, Panama, and Spain.<sup>1</sup>

Nicaragua has not developed a comprehensive emigrant policies scheme. For instance, there is neither a consultative nor an administrative body at the national level in charge of emigrant issues; Nicaraguan embassies and consulates do not even provide the fundamental rights stipulated under consular protection (as for now, Nicaraguans cannot receive an identity card and thereby regularize their migration status),<sup>2</sup> at consulates. Furthermore, Nicaraguans are not enabled to vote abroad, as the regulations necessary for external vote implementation have not been passed. Another sphere where this lack of attention to emigrants becomes apparent is symbolic policies: there are no programs or institutions intended to strengthen the relationship between Nicaraguan emigrants and their homeland.

Among the scarce emigrant policies in Nicaragua, most attention is given to the protection of unaccompanied children and adolescents, mostly within the context of international commitments (international treaties, etc.) and international cooperation. But even there, the focus lies on transit and the repatriation and, above all, on the prevention of emigration, especially through job creation.<sup>3</sup> Although some of those programs are crucial to guarantee migrants' human rights during migration, they do not address emigrants' rights once they are established abroad.

Although the current developmental agenda (*Plan Nacional de Desarrollo 2012-2016*) recognizes that emigration is an answer to poverty and unemployment, and puts emphasis on the importance of remittances for the development of the country, it does not indicate a significant change in policy towards Nicaraguan emigrants.

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1 Organización Internacional para las Migraciones, "Perfil migratorio de Nicaragua 2012," 37.

2 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas*, Art. 28.

3 Gobierno de Reconciliación y Unidad Nacional de Nicaragua, "Plan Nacional de Desarrollo Humano 2012-2016. A Seguir Transformando Nicaragua," Art. 445 and 448.



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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Nicaraguan law distinguishes between ‘nationals’ and ‘naturalized’ Nicaraguans. All persons born in Nicaragua, as well as children of nationals, are nationals.<sup>4</sup> Children outside the country to a mother or father, who used to be Nicaraguan,<sup>5</sup> are nationals (and not naturalized) providing they apply for Nicaraguan nationality upon reaching legal age.<sup>6</sup> Nicaraguan nationals cannot be deprived of their nationality in any case.<sup>7</sup> Furthermore, there is no obstacle to unlimited inheritance of Nicaraguan nationality.

### LOSS OF CITIZENSHIP/NATIONALITY

The Constitution states that Nicaraguan nationals (by birth) can’t be deprived of their nationality in any case, including the adoption of another nationality.<sup>8</sup> By Nicaraguan law, residence in the country is also not required to maintain citizenship or nationality for nationals nor for naturalized Nicaraguans.<sup>9</sup>

Nonetheless, naturalized Nicaraguans can lose their nationality if they adopt another nationality, cancel their Nicaraguan citizenship, misuse their national documents when entering or exiting the country, present fraudulent documents, or if they refuse to serve in national defense or betray the country.<sup>10</sup>

Although regulated by law,<sup>11</sup> many Nicaraguan citizens living abroad do not enjoy fundamental citizen rights, as they are not able to regularize their migrant status without an identity card, which can only be obtained in country.<sup>12</sup>

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4 Asamblea Nacional de la República de Nicaragua, *Ley No. 761. Ley General de Migración y Extranjería*, Art. 45.

5 Ministerio del Interior de la República de Nicaragua, *Ley No. 149. Ley de Nacionalidad*, Art. 15.

6 Asamblea Nacional de la República de Nicaragua, *Ley No. 761. Ley General de Migración y Extranjería*, Art. 45.

7 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas* Art. 20; Asamblea Nacional de la República de Nicaragua, *Ley No. 761. Ley General de Migración y Extranjería*, Art. 47.

8 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas* Art. 20; Asamblea Nacional de la República de Nicaragua, *Ley No. 761. Ley General de Migración y Extranjería*, Art. 47.

9 Ibid. Art. 64.

10 Ibid. Art. 64.

11 Asamblea Nacional de la República de Nicaragua, *Ley No. 152. Ley de Identificación Ciudadana*, Art. 2.

12 Consejo Supremo Electoral, “Requisitos de Trámites de Cédulas.”

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

The Electoral Law establishes the right to vote from abroad for presidential and legislative (National Assembly) elections and for the elections organized to elect the representatives in the Central American Parliament.<sup>13</sup> However, external voting rights have not been put into practice yet by the responsible institutions, namely, the Supreme Electoral Council.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Under Nicaraguan law, non-residents cannot stand for election in any case. In order to run for president, vice-president, or the national legislature, the candidate must have resided permanently in Nicaragua for at least four years prior to the election (except for diplomatic or international organizations personnel and students).<sup>14</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

At the time of writing this chapter, external voting has not been implemented and the regulation regarding voting methods has not been issued.

### MODE OF REPRESENTATION

As external voting has not been regulated, it is unclear how external votes would be counted.

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

Nicaraguan law does not prohibit party offices outside the country but, at the same time, does not explicitly regulate offices in host countries, nor provide financial support. The Electoral Law regulates electoral campaign funding, but does not regulate how the parties have to distribute the funding inside their organization.<sup>15</sup>

Within its statute, the ruling Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional, FSLN*) states that party members who live

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13 Asamblea Nacional de la República de Nicaragua, *Ley No. 331. Ley Electoral con reformas incorporadas*, Art. 122 and 51.

14 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas*, Art. 134 and 147.

15 Asamblea Nacional de la República de Nicaragua, *Ley No. 331. Ley Electoral con reformas incorporadas*, Art. 99.

outside the county are allowed to create grassroots offices and that they are authorized to elect representatives for the party congress.<sup>16</sup> The Sandinista Renovation Movement (*Movimiento Renovador Sandinista, MRS*) allows party members living abroad to form associations, networks, committees, or work groups. The party's directorate decides how these groups are represented in the party's council.<sup>17</sup> Other parties do not mention any regulation of external party offices.

### POLITICAL CAMPAIGNS

As voting abroad has not been regulated, the Nicaraguan parties do not conduct political campaigns abroad. The existing laws do not provide any regulation for the execution of electoral campaigns, the elections or electoral counting for external voting. Nevertheless, some candidates travel abroad in order to get financial support.<sup>18</sup>

### MEMBERSHIP

The only specification about party membership is made in the Constitution, which states that all Nicaraguan citizens have the right to organize or join a political party.<sup>19</sup>

Party statutes make no mention of any restriction on party membership for Nicaraguans residing abroad.<sup>20</sup> Some go so far as to mandate emigrant representation in party conventions.

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT THE NATIONAL LEVEL

In 2009, a motion was put forward to create a consultative body known as the National Council for Attention to Nicaraguan Migrants Abroad (*Consejo Nacional de Atención al Migrante Nicaragüense en el Exterior, CONAMINE*).<sup>21</sup> This

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16 Frente Sandinista de Liberación Nacional, "Estatutos 2002 FSLN," Art. 17.

17 Movimiento Renovador Sandinista, "Estatutos MRS 2012," Art. 30.

18 Flores, Judith, "Nicas sin poder votar"; AFP, "Candidato PLI a Miami."

19 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas*, Art. 55.

20 Frente Sandinista de Liberación Nacional, "Estatutos 2002 FSLN," Art. 15; Movimiento Renovador Sandinista, "Estatutos MRS 2012," Art. 11; Alianza Liberal Nicaragüense, "Estatuto Interno Alianza Liberal Nicaragüense," Art. 23; Partido Liberal Constitucionalista, "Estatutos del Partido Liberal Constitucionalista," Art. 9; Partido Liberal Independiente, "Estatutos del Partido Liberal Independiente," Art. 8.

21 Organización Internacional para las Migraciones, Save the Children, and Red Nicaragüense de la Sociedad Civil para las Migraciones, "Situación de Niños, Niñas y Adolescentes que viajan no acompañados por la Región Centroamericana. Estudio

initiative did not take off. Thus, at the moment, there is no consultative body for emigration issues at the national level.

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## ADMINISTRATION

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### CONSULATES

In 2014, the Nicaraguan consular network included 40 embassies and 14 general consulates.<sup>22</sup> There exist mobile consulates in Spain.<sup>23</sup>

There is no indication that consulates provide services beyond standard consular functions.<sup>24</sup> However, aiming to better serve emigrants in the foreign cities most populated by Nicaraguans (e.g. San José, Costa Rica), a law has lowered the cost of the most demanded consular services (such as applying for a provisional or first passport), raising the cost of less demanded services (such as passport renewal), and also offering a consular document (similar to the *Matrícula consular* offered by other countries) with the purpose of facilitating the identification of migrants who lack documents.<sup>25</sup> The purpose of this measure was to help finance the consulates so that they can respond to the heightened demand in some locations by adapting the scheme of fees for services.

Although Nicaraguan law grants consular protection,<sup>26</sup> the International Organization for Migration has criticized the limited consular protection afforded vulnerable repatriated migrants.<sup>27</sup>

### HOME COUNTRY ADMINISTRATION

Currently, there is no institution focused on emigrant issues; the principal tasks regarding emigrant policies are fragmented in the public administration of Nicaragua.

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Nicaragua, 2010,” 28f.

22 Ministerio de Relaciones Exteriores, “Cuerpo Diplomático y Consular de Nicaragua.”

23 Embajada de Nicaragua en España.

24 Presidente de la República de Nicaragua, *Reglamento a la Ley del Servicio Exterior*, 2001, Art. 116-120.

25 Asamblea Nacional, *Ley de Tasas por Servicios Consulares*; Bravo, “Consulados nicaragüenses aplican nueva ley de aranceles.”

26 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas* Art. 28; Asamblea Nacional de la República de Nicaragua, *Ley No. 358. Ley del Servicio Exterior*, 2000.

27 Organización Internacional para las Migraciones, Save the Children, and Red Nicaragüense de la Sociedad Civil para las Migraciones, “Situación de Niños, Niñas y Adolescentes que viajan no acompañados por la Región Centroamericana. Estudio Nicaragua, 2010,” 28.

The Directorate General of Migration and Immigrant Affairs, under the Ministry of the Interior, regulates, organizes, registers, and controls migration flows in general, but is not responsible for designing or implementing emigrant policies.<sup>28</sup>

Furthermore, although enacted by law,<sup>29</sup> the National Council on Migration and Immigrant Affairs has not formed yet. The Council is an inter-administrative body meant to advise the presidency in order to develop migration policies. The description of its functions, as it is now drafted in the regulations, does not include any mention of emigrant policies.<sup>30</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

Although many Nicaraguan families rely on remittances, the Nicaraguan remittance market is highly unregulated and there are no direct incentives to attract or (re-)invest remittances.<sup>31</sup>

In 2006, the *Iniciativa de ley para la Promoción, Protección y Diversificación de las Remesas Familiares* aspired to regulate the remittances market, but it did not pass in parliament. In 2009, the Nicaraguan Central Bank took an important first step to facilitate the sending of remittances when it joined the Payment Interconnection System (*Sistema de Interconexión de Pagos, SIP*), whereby sending remittances from Central America and the Dominican Republic has become much faster, safer and cheaper.<sup>32</sup>

### INVESTMENT

Nicaragua has not implemented any policy to stimulate emigrants' investment. As remittances are not regulated by state policies, there isn't any base for investment policies.

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Generally, Nicaragua has not adopted a comprehensive scheme to reinforce the professional and academic exchange between Nicaraguans living abroad. However, there are some isolated attempts to create brain-circulation pro-

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28 Asamblea Nacional de la República de Nicaragua, *Ley No. 761. Ley General de Migración y Extranjería*, Art. 10.

29 Ibid.

30 Asamblea Legislativa, *Ley General de Migración y Extranjería*; *Ley No. 8764*, Art. 4.

31 Centro de Estudios Monetarios Latinoamericanos, Fondo Multilateral de Inversiones del Banco Interamericano de Desarrollo, and Banco Mundial, *Programa de Aplicación de los Principios Generales para los mercados de remesas de América Latina y el Caribe. Nicaragua*, 2012, 14.

32 Banco Central de Nicaragua, "Informe Anual 2010," 5.

grams conducted by the Nicaraguan Council of Science and Technology (*Consejo Nicaragüense de Ciencia y Tecnología, CONICYT*) and the Nicaraguan Academy of Sciences (*Academia de Ciencias de Nicaragua, ACN*). The CONICYT's *Retención, Repatriación y Movilidad de Talento Humano* program aimed to establish a network of talents abroad and facilitating the reintegration of emigrated professionals as an important development possibility for Nicaragua.<sup>33</sup>

The ACN similarly sought to harness the talents of diaspora to further the economic and scientific development of the country.<sup>34</sup>

The Interdisciplinary Congress of Scientific Investigation launched an initiative to create and reinforce the relationship with Nicaraguan professionals and scientists living abroad.<sup>35</sup>

### RETURN POLICIES

In order to be recognized, degrees obtained abroad must be legally authenticated and submitted to the *Universidad Nacional Autónoma de Nicaragua (UNAN)*.<sup>36</sup> The regulation states that the university board of the UNAN reaches its decision within sixty days.<sup>37</sup>

Due to a regional degree program, professional titles obtained in Central America are recognized automatically.<sup>38</sup>

The Nicaraguan State does not conduct any communication campaigns in order to convince emigrants to return to Nicaragua.

However, to promote the return of nationals who have been living abroad for at least five years, the government exempts them from paying customs duties for importing furniture and an automobile, new or used (up to USD\$25,000) and professional tools (up to USD\$200,000).<sup>39</sup> Returnees who have been abroad for more than two years are permitted to import furniture (up to USD\$20,000) tax-free.<sup>40</sup>

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33 Consejo Nicaragüense de Ciencia y Tecnología, "Plan Nacional de Ciencia, Tecnología e Innovación," 52f.

34 Academia de Ciencias de Nicaragua, *Anuarios 2011-2012*, 2011.

35 Academia de Ciencias de Nicaragua, "Congreso Interdisciplinario de Investigación Científica. Creando alianzas con los profesionales y científicos de la diáspora nicaragüense."

36 Junta de Gobierno de Reconstrucción Nacional de la República de Nicaragua, *Ley de incorporación de profesionales en Nicaragua*, 1979, Art. 1 and 2.

37 Ibid. Art. 6.

38 Gobierno de Costa Rica et al., *Convenio sobre el Ejercicio de Profesiones Universitarias y Reconocimiento de Estudios Universitarios*.

39 Asamblea Nacional de la República de Nicaragua, *Ley No. 535. Ley Especial de Incentivos Migratorios para los Nicaragüenses Residentes en el Exterior*, 2005 Art. 1, 5f; Ministro de Hacienda y Crédito Público de la República de Nicaragua, *Normativa para la aplicación de la Ley 535 "Ley Especial de Incentivos Migratorios para los Nicaragüenses Residentes en el Extranjero"*, 2005.

40 Ministro de Hacienda y Crédito Público de la República de Nicaragua, *Normativa*

Returning Nicaraguan (and foreign) retirees that have lived abroad for at least 10 years and receive a pension of at least USD\$600 per month are entitled to a wide array of benefits.<sup>41</sup>

In general, the Nicaraguan government's efforts to facilitate return are rare; those commitments that do exist are developed on the Central American or international level. Nicaragua is part of the Regional Conference on Migration, whose goal is the secure overland return of regional migrants and special protection in the case of returning children and adolescent victims of human trafficking.<sup>42</sup>

There also exist bilateral treaties with Costa Rica (labor migration), El Salvador (regulation of Nicaraguans living in El Salvador) and the USA (aerial repatriation of returning migrants).<sup>43</sup>

The Nicaraguan state participates not as initiator, but as collaborator in some IOM programs that address the needs of the returning population, such as the *Fortalecimiento de las capacidades para proteger y brindar atención a las poblaciones migrantes en Centroamérica* program (implemented also by IOM in other Central American countries). In Nicaragua, this was implemented in Chinandenga, one of the regions most affected by emigration.<sup>44</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service is not obligatory in Nicaragua.<sup>45</sup>

Medical doctors, dentists, pharmacists, and medical technologists who graduated abroad have to comply with the obligatory social service in Nicaragua in order to be authorized to work in Nicaragua.<sup>46</sup>

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*para la aplicación de la Ley 535 "Ley Especial de Incentivos Migratorios para los Nicaragüenses Residentes en el Extranjero* Art. 12; Presidente de la República de Nicaragua, *Reglamento a la Ley que establece el Autodespacho para la Importación, Exportación y otros Regímenes Aduaneros*, 1998, Art. 23; Asamblea Nacional de la República de Nicaragua, *Ley No. 250. Ley de Incentivos Migratorios*, 1997.

41 Asamblea Nacional de la República de Nicaragua, *Ley No. 694. Ley de Promoción de Ingresos de Residentes Pensionados y Residentes Rentistas*, Art. 7.

42 Organización Internacional para las Migraciones, Save the Children, and Red Nicaragüense de la Sociedad Civil para las Migraciones, "Situación de niños, niñas y adolescentes que viajan no acompañados por la región centroamericana. Estudio Nicaragua, 2010," 29.

43 Organización Internacional para las Migraciones, "Perfil Migratorio de Nicaragua 2012," 134.

44 IOM Nicaragua, "Vidas Transformadas. Memoria IOM 2012 Nicaragua," 29.

45 Asamblea Nacional de la República de Nicaragua, *Constitución Política de la República de Nicaragua con sus reformas incorporadas*, Art. 96.

46 Junta de Gobierno de Reconstrucción Nacional de la República de Nicaragua,

There are no specific taxes for emigrants. Residents and non-residents must pay taxes on revenue from Nicaraguan sources (work, economic activities, and investment).<sup>47</sup>

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## EXIT AND TRANSIT POLICIES

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No evidence could be found of programs or campaigns launched by the state to support emigrants as they migrate, or to inform them about their rights. Other actors fulfill this roll. Since 2006, the IOM, the Inter-American Development Bank, and the Ricky Martin Foundation have conducted a regional campaign against human trafficking called *Llama y vive* in Nicaragua.<sup>48</sup> The campaign aims to raise awareness about human trafficking amongst potential victims and the general public and to promote telephone hotlines where victims can call for protection and assistance. Besides television and radio public service announcements and posters, the campaign is visible on the websites of the three foundations.

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## SOCIAL POLICIES

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Neither the Law on Social Security,<sup>49</sup> nor the homepage of the Nicaraguan Institute of Social Security (*Instituto Nicaragüense de Seguridad Social, INSS*),<sup>50</sup> list residence in Nicaragua as a requirement for social benefits (retirement pension; pension for partial or total invalidity; pension for partial or total incapacity). However, no procedure of incorporation into the Nicaraguan Social System from abroad has been found.

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*Reforma a la Ley creadora del servicio social obligatorio*, 1981, Art. 2.

47 Asamblea Nacional de la República de Nicaragua, *Ley No. 822. Ley de Concertación Tributaria*, Art. 5.

48 Banco Interamericano de Desarrollo, “Campaña Llama y Vive.”

49 Junta de Gobierno de Reconstrucción Nacional de la República de Nicaragua, *Decreto No. 974. Ley de Seguridad Social*, 1982; Junta de Gobierno de Reconstrucción Nacional de la República de Nicaragua, *Reglamento General de la Ley de Seguridad Social*, 1982; Presidente de la República de Nicaragua, *Decreto 25-2005 Reformas y Adiciones al Reglamento General de la Ley de Seguridad Social*, 2005.

50 Instituto Nicaragüense de Seguridad Social, “Seguro de Invalidez, Vejez y Muerte (IVM).”



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## SYMBOLIC POLICIES

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The fact that in Nicaragua there is little political concern for emigrants becomes very clear in the context of symbolic policies: Nicaraguan emigrants are not addressed in the Constitution, in the context of the National Day, or in other important political speeches. There are no conferences or awards for emigrants.

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# PANAMA

Panama is a prototypical case of a country that has not developed a comprehensive strategy to proactively build links with its non-resident citizens. The migration law does not mention in any of its provisions non-resident citizens. Moreover, Panama does not have cultural, social, or symbolic policies and its administrative structure does not include units dedicated to emigrant policies. However, in the political realm, Panama has made some advances in recent years. It allows dual nationality, although with restrictions for naturalized nationals, and has granted electoral rights to emigrants for presidential and vice-presidential elections.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Panama has a restrictive regulation on dual/multiple nationalities. For instance, the criteria for the recognition of nationality by bloodline (*jus sanguinis*) are connected to residence in the country.<sup>1</sup>

For Panamanians by birth, dual nationality is permitted; however, the exercise of dual citizenship is not. Panamanians holding dual or multiple nationalities cannot exercise citizen rights in Panama, since Panamanian citizenship is “inactive” until they give up the other nationality.<sup>2</sup>

For naturalized Panamanians, dual citizenship/nationality is not permitted.<sup>3</sup>

The Constitution of Panama does not make reference to any limit on the number of generations for which dual/multiple nationality is permitted.

### LOSS OF CITIZENSHIP/NATIONALITY

Panamanians by birth do not lose their nationality or citizenship if they reside abroad permanently. However, if they acquire another nationality or enter the service of an enemy state, their citizenship will be suspended. The provisions applied to Panamanians by naturalization are more restrictive since they do lose both their citizenship and nationality if they acquire another nationality.<sup>4</sup>

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1 Asamblea Nacional de Panamá, *Constitución Política de la República de Panamá*, Art. 9

2 Ibid. Art. 13.

3 Ibid. Art. 10.

4 Ibid. Art. 13.

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Panamanian electoral law sets out provisions for emigrants to vote. Emigrants must apply to be included in the electoral register in the district of their last residence in Panama. If they are in the country on election day, emigrants may vote in all types of elections. However, voting abroad is permitted only for presidential and vice-presidential elections.<sup>5</sup>

The Constitution contains no reference to external voting for national referenda. A national referendum held in 2006 on the enlargement of the Panama Canal saw no consideration of external voting.<sup>6</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Panamanian regulation on candidacy rights<sup>7</sup> makes no explicit reference to the candidacy rights of non-resident citizens.

It is also important to keep in mind that only Panamanians with no other nationality may exercise citizenship rights (and therefore candidacy rights). Furthermore, in most Panamanian political parties, candidacy rights are subject to restrictions based on residence.

For national legislative<sup>8</sup> and regional executive elections, the regulation on candidacy rights for non-resident citizens also considers in-country residence as a requirement.<sup>9</sup>

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

As mentioned previously, non-resident citizens can vote in their country for all elections. Furthermore, they can exercise their right to suffrage in presidential elections through postal and electronic voting, as well as submitting directly their vote in the *Subcomisión del voto en el extranjero*.<sup>10</sup>

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5 Asamblea Nacional de Panamá, *Código Electoral*, Art. 6.

6 Asamblea Nacional de Panamá, *Ley por la que se aprueba la expansión del Canal de Panamá*; Asamblea Nacional de Panamá, *Constitución Política de la República de Panamá*, Arts. 313, 314, 325.

7 Asamblea Nacional de Panamá, *Constitución Política de la República de Panamá*, Art. 179.

8 Ibid. Art. 153.

9 Ibid. Art. 226.

10 Tribunal Supremo Electoral de Panamá, *Decreto 7 del 13 de Marzo de 2013, "Por el cual se reglamentan las elecciones generales del 4 de mayo de 2014,"* Art. 161.

### **REGISTRATION FOR THE FRANCHISE**

The method of registration for franchise is active the first time, and automatic for residents. Non-residents must always actively register in the electoral register for Panamanians abroad. Registration can be done online in a two-step process including an application and an interview via Skype.<sup>11</sup>

### **MODE OF REPRESENTATION**

As there is no external voting for national legislative elections, this does not apply in Panama.

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## **REGULATION OF POLITICAL COMPETITION**

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### **PARTY OFFICES IN HOST COUNTRIES AND POLITICAL CAMPAIGNS**

In Panama, political competition abroad is not regulated. There are no permanent political party offices abroad. Political campaigning outside of Panama is permitted, however no systematic political campaign abroad has taken place, probably because external voting has only been in place since 2009.

### **MEMBERSHIP**

None of the political parties in Panama excludes emigrants from party membership. However, internal candidacy rights for posts within parties are subject to restrictions based on residence.

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## **INSTITUTIONAL PARTICIPATION**

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### **CONSULTATIVE BODIES AT NATIONAL LEVEL**

The Consultative Council for Migration is an inter-administrative group composed of representatives of key ministries, such as the Ministry of Foreign Affairs. This consultative body is not, however, responsible for emigrant issues. It mostly deals with security with a special focus on immigration.<sup>12</sup>

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11 Tribunal Supremo Electoral de Panamá, *Decreto 18 de 31 de Octubre de 2012, por el cual se subroga el Decreto 9 de 2 de Julio de 2007, Relativo a la manera de inscribirse en el Registro Electoral de Panameños Residentes en el Extranjero* (RERE).

12 Tribunal Supremo Electoral de Panamá, *Decreto 7 del 13 de Marzo de 2013, "Por el cual se reglamentan las elecciones generales del 4 de mayo de 2014,"* Art. 8.

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## ADMINISTRATION

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### CONSULATES

As of 2015, Panama's consular network comprises 84 consulates in 69 countries, not including honorary consulates and embassies.<sup>13</sup>

Consulates offer legal/judicial consultancy within their capabilities. They do not provide any financial nor psychological consultancy.<sup>14</sup>

### HOME COUNTRY ADMINISTRATION

Panama has no specific administration for emigrant issues.<sup>15</sup>

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## ECONOMIC POLICIES

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### RETURN POLICIES

The Ministry of Education is responsible for the recognition of academic and professional qualifications acquired abroad.<sup>16</sup> Recognition of undergraduate and graduate degrees is handled by the *Universidad de Panamá*.<sup>17</sup> The maximum period for recognition of qualifications is 30 days.<sup>18</sup>

There are no long-term communication campaigns aiming to convince emigrants to return to Panama. This is also the case of programs that aim to facilitate the re-integration of returnees.

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Panama has no standing army, therefore no military service exists.<sup>19</sup> No social service or tax obligations exist for Panamanian emigrants.

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13 Ministerio de Relaciones Exteriores, "Guía Consular (Consulados de Panamá en el Mundo)."

14 Embajada de Panamá en Alemania, "Servicios Consulares."

15 Ministerio de Relaciones Exteriores de Panamá, "Organigrama del Ministerio de Relaciones Exteriores."

16 Ministerio de Educación de la República de Panamá, "Instrucciones de convalidaciones y reválida de título y créditos académicos del extranjero."

17 Secretaría General de la Universidad de Panamá, "Requisitos para la homologación de títulos o diplomas universitarios obtenidos en el extranjero."

18 Universidad de Panamá, "Reglamento para la evaluación de títulos y otros estudios."

19 Asamblea Nacional de Panamá, *Constitución Política de la República de Panamá*, Art. 310.

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## CULTURAL POLICIES

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Panama has not implemented any cultural program for emigrants and cultural centers abroad do not exist. The Ministry of Education is the only agency addressing cultural promotion abroad.

There are, however, several private initiatives, carried out by the non-profit corporation Viva Panama Organization, which includes the consulate of Panama in California and the *Instituto Nacional de Cultura* among its affiliated members.<sup>20</sup>

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## SOCIAL POLICIES

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Emigrants have the possibility to maintain employment benefits after emigrating but not under the same conditions as resident citizens. Employment benefits are managed through consulates.

Emigrants cannot maintain healthcare benefits after leaving the country. This is only covered by private health insurance. Education programs for emigrants do not exist either. Furthermore, Panama has not signed the Multilateral Iberoamerican Social Security Agreement.<sup>21</sup>

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<sup>20</sup> “Viva Panama.org”.

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# PARAGUAY

Paraguay has observed growing emigration flows since the mid-19<sup>th</sup> century. As of 2011, 12% of all Paraguayan citizens lived abroad, usually in Argentina, Brazil, Spain, and the United States.<sup>1</sup> Most of the recent emigrants are young, female and emigrate for professional reasons.<sup>2</sup>

The current Constitution of Paraguay, passed in 1992, states that all Paraguayans have the right to reside in their homeland. Residents may move freely in the national territory, change their place of residence, leave or return to the Republic, and, in accordance with the law, import or export their possessions.<sup>3</sup> This is presumably an attempt to make peace with those citizens who left Paraguay during the authoritarian regime of Alfredo Stroessner (1954-1989): Their right to leave or return is explicitly recognized.

As of 2015, Paraguay was the only Mercosur member to have implemented direct elections for the Mercosur Parliament (Parlasur). Non-resident Paraguayans, who have the right to vote for president, vice-president and senator, can also elect Parlasur representatives from abroad. However, not all legal provisions for external voting have been implemented, given that only Paraguayans living in certain cities in Spain, Argentina and the United States can vote. In fact, emigrant policies are still incipient in this country: External voting was only implemented in 2013, there is no consultative body of/for emigrant representation, no brain-gain or brain-circulation network, no cultural policies or official programs to attract remittances, and a very limited number of symbolic policies.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

According to the Paraguayan Constitution, multiple nationality is tolerated in the case of countries with which Paraguay has signed an agreement.<sup>4</sup> However, Paraguay has signed only one bilateral nationality agreement thus far, with Spain.<sup>5</sup> As a consequence, there are no legal obstacles for acquiring Spanish nationality alongside Paraguayan nationality; acquiring any nationality other than Spanish results in losing the Paraguayan one.<sup>6</sup>

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1 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 33, 35.

2 Ibid. 36-37.

3 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 41.

4 Ibid. Art. 149.

5 Corte Suprema de Justicia, *Ley N° 843/62 - Convenio de Doble Nacionalidad entre la República del Paraguay y el Estado Español*.

6 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 150.

Nevertheless, Resolution 1096 distinguishes between multiple nationality (*nacionalidad multiple*) and dual nationality (*doble nacionalidad*). The constitution only contemplates the former, which refers to nationality at birth (natural) and an acquired nationality (naturalization). Accordingly, the resolution identifies a constitutional loophole: it is possible to hold a second nationality other than the Paraguayan one, as long as it is a birthright (dual nationality).<sup>7</sup>

According to the Paraguayan constitution, the exercise of citizen rights is suspended whenever a Paraguayan citizen adopts another nationality, except in the case a bilateral agreement has been signed between the relevant nations.<sup>8</sup> Again, this formulation refers exclusively to Paraguayans who accept another nationality; the constitution does not contemplate individuals with dual nationality (i.e. with two nationalities as a birthright).

Citizenship can be passed to children born abroad to Paraguayan-born parents, under the condition that these children move to Paraguay permanently.<sup>9</sup> In practice, children born to Paraguayan parents in a country with *jus sanguinis* are effectively stateless – at least until they return to Paraguay and establish permanent residence.<sup>10</sup> Only in 2014 did Paraguay adhere to the UN Convention relating to the status of stateless persons, thus formally committing to improve the lives of stateless individuals.<sup>11</sup>

#### LOSS OF CITIZENSHIP/NATIONALITY

Paraguayans *by naturalization* may lose their nationality if they live abroad, unjustifiably, for over three years, or if they voluntarily acquire a foreign nationality.<sup>12</sup> *Natural* Paraguayans (Paraguayans by birthright), on the other hand, do not lose their nationality unless they voluntarily renounce it.<sup>13</sup> If they acquire another nationality (other than Spanish), however, their citizenship is suspended.

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7 Dirección General de Migraciones, Resolución N° 1096 - Por la cual se exonera el pago de multa a ciudadanos paraguayos que cuenten con otra nacionalidad (2012).

8 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 153.

9 Ibid. Art. 146.

10 ABC Color, “Niños nacidos en el exterior son apátridas, por inciso constitucional.”

11 Ministerio de Relaciones Exteriores, “Paraguay ratifica compromiso para mejorar y regularizar condición de los apátridas.”

12 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 150.

13 Ibid. Art. 150.

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

The Constitution establishes that voting is compulsory in Paraguay.<sup>14</sup> All non-resident citizens are entitled to vote for President, Senate, and for the Mercosur Parliament.<sup>15</sup>

While non-residents can vote for the Senate, which is directly elected by the national constituency,<sup>16</sup> they cannot vote for the Chamber of Deputies, as this organ follows the principle of local representation (by department)<sup>17</sup> and Paraguayan consulates do not constitute a department on their own. Non-resident Paraguayans cannot vote on a regional level either, though they can vote for the Mercosur Parliament. In fact, Paraguay is the only Mercosur member to hold direct elections for the Parlasur: Representatives of Argentina, Brazil, Uruguay, and Venezuela are still elected indirectly.

Referendums are regulated on a case-by-case basis, and may or may not be binding, as established by the Constitution.<sup>18</sup> The last national referendum took place in 2011 and gave non-residents the right to vote.<sup>19</sup> Though no referendum was held ever since, one can expect future ones to take this change into consideration.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The Paraguayan Constitution establishes that presidents and vice-presidents must be natural-born Paraguayans over 35 and in full exercise of their civil and political rights.<sup>20</sup> Depending on how the latter criterion is interpreted, one could argue that a potential non-resident candidate fully exercises his civil and political rights, given that he can vote for president and for the Senate (though not for anything else). As a consequence, he would be eligible to the office of president, as no other limitations apply.<sup>21</sup>

As for the National Congress, the Constitution establishes that senators must be natural Paraguayans over 35;<sup>22</sup> members of the Chamber of Dep-

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14 Ibid. Art. 118.

15 Tribunal Superior de Justicia Electoral, *Resolución N° 32/2013, por la que se aprueba el reglamento para el voto de paraguayos residentes en el extranjero*. Capítulo I.

16 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 223.

17 Ibid. Art. 221.

18 Ibid. Art. 121.

19 Tribunal Superior de Justicia Electoral, “Referéndum 9 de Octubre, 2011.”

20 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 228.

21 Tribunal Superior de Justicia Electoral, *Ley N° 834/96 que establece el Código Electoral Paraguayo*, Art. 95.

22 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 223.

uties must be over 25.<sup>23</sup> Given that no further restrictions are imposed, one assumes both residents and non-residents are eligible.<sup>24</sup> As a consequence, non-residents could also presumably run for Parlasur, as candidates for Parliament are subject to the candidacy requirements of their respective state.<sup>25</sup>

To be eligible for the regional executive, however, citizens must be living in the corresponding department for at least one year immediately prior to the election – or for at least five years, if they are not originally from that department.<sup>26</sup> The same rules apply for the regional legislative, meaning non-residents cannot be candidates for either position.

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

The only voting method available to Paraguayan citizens registered as non-residents is in embassies or consulates, as Paraguayans can only vote individually and in person.<sup>27</sup> But even for individual and personal voting, only a limited number of voting places are available in Argentina (Buenos Aires, Formosa, La Plata, Misiones, San Justo), Spain (Barcelona, Bilbao, Madrid, Malaga) and the United States (Miami, New Jersey, New York, Washington, Westchester).<sup>28</sup> Consequently, only voters registered in these jurisdictions are entitled to vote.

#### REGISTRATION FOR THE FRANCHISE

Every Paraguayan who turns 18 after January 16, 2012 is automatically included in the electoral register, or *Registro Cívico Permanente*.<sup>29</sup> Individuals who turned 18 before this date must register actively.<sup>30</sup> The data included in this register is updated on a monthly basis.<sup>31</sup>

The same automatic registration method applies to both resident and non-resident citizens. However, the registration of non-residents is restricted to those locations where external voting has already been implemented, though this network is gradually expanding to include more cities in more countries.<sup>32</sup>

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23 Ibid. Art. 221.

24 Tribunal Superior de Justicia Electoral, *Ley N° 834/96, que establece el Código Electoral Paraguayo*, Art. 95.

25 Mercosur, *Protocolo constitutivo del Parlamento del Mercosur*. Art. 11.

26 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 162.

27 Tribunal Superior de Justicia Electoral, *Ley N° 834/96, que establece el Código Electoral Paraguayo*, Art. 89.

28 Tribunal Superior de Justicia Electoral, *Resolución N° 55/2013, Reglamento para el voto de paraguayos residentes en el extranjero para las elecciones generales de abril de 2013*.

29 Tribunal Superior de Justicia Electoral, “Inscripción Automática.”

30 Poder Legislativo, *Ley N° 4559/2012, que establece la inscripción automática en el registro cívico permanente*, Art. 6.

31 Ibid. Art. 7.

32 UltimaHora.com, “Incluirán más ciudades del exterior para inscripción de paraguayos en el padrón electoral.”

### MODE OF REPRESENTATION

Non-resident citizens can only vote for the Senate, which is directly elected by the national constituency.<sup>33</sup> This means that the whole country counts as one sole voting district; non-resident votes for the Senate are incorporated into the broader voting totals without distinction (general biographical incorporated counting).

Nevertheless, for organizational reasons, non-resident citizens are ascribed to different electoral districts and zones, even though their votes are ultimately incorporated into the broader voting totals.<sup>34</sup>

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### REGULATION OF POLITICAL COMPETITION

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#### PARTY OFFICES IN HOST COUNTRIES

The Electoral Code of Paraguay guarantees the free circulation of ideas and that citizens may participate in political campaigning within the country and abroad.<sup>35</sup> Accordingly, one assumes that external party offices are legally allowed; in fact, the statute of the governing Colorado Party (*Partido Colorado*) gives the party leadership the responsibility to create and structure commissions abroad.<sup>36</sup> As a consequence, the Colorado Party has offices in Argentina, Spain, and the United States.<sup>37</sup> Meanwhile, the statute of the Authentic Radical Liberal Party (*Partido Liberal Radical Auténtico*) envisions the existence of external committees, particularly in Buenos Aires, Buenos Aires Metropolitan Region, Montevideo, New Jersey, New York, and along the Paraguayan border with Argentina and Brazil.<sup>38</sup>

In any event, parties are not allowed to accept donations from foreign institutions, including foreign political movements or citizens.<sup>39</sup> Given that the Electoral Code does not specifically address the issue of public funding, one assumes external offices are indeed entitled to public money, if only for the specific purposes and following the regulations outlined in the Code.<sup>40</sup>

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33 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 223.

34 Tribunal Superior de Justicia Electoral, *Resolución N° 32/2013, por la que se aprueba el reglamento para el voto de paraguayos residentes en el extranjero*. Capítulo II.

35 Tribunal Superior de Justicia Electoral, *Ley N° 834/96, que establece el Código Electoral Paraguayo*, Art. 15.

36 Partido Colorado, *Estatuto: Asociación Nacional Republicana / Partido Colorado*, Art. 26j.

37 Partido Colorado, "Piden reconocimiento de una seccional en Madrid."

38 Partido Liberal Radical Auténtico, *Estatuto del Partido Liberal Radical Auténtico*, Art. 51.

39 Tribunal Superior de Justicia Electoral, *Ley N° 834/96, que establece el Código Electoral Paraguayo*, Art. 68a.

40 Ibid. Art. 276-284.

## POLITICAL CAMPAIGNS

During the 2013 elections, when external voting was allowed for the first time, political campaigns were expressly forbidden in countries where voting took place.<sup>41</sup> Meanwhile, as stated earlier, the Electoral Code guarantees the free circulation of ideas and that citizens may participate in political campaigning within the country and abroad.<sup>42</sup> Still, these sources of law do not necessarily contradict each other. Political engagement could be permitted in a non-campaign format or in countries where no voting takes place.

## MEMBERSHIP

According to the Electoral Code of Paraguay, non-residents are not prevented from joining a political party.<sup>43</sup>

The statute of the Colorado Party poses no restrictions to emigrant membership.<sup>44</sup> In terms of internal candidacy rights, the party only requires a minimum membership period of five years for parliamentary candidates<sup>45</sup> and 10 years for presidential candidates.<sup>46</sup> The Authentic Radical Liberal Party similarly poses no restriction to emigrant membership;<sup>47</sup> members are allowed to run for local/departmental elections after three years of membership and for national elections after five years of membership.<sup>48</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

There is no consultative body of/for emigrant representation acting at the national level. All organs for emigrant representation (such as *Asociación de Paraguayos Retornados del Exilio – APRE* or *Asociación de Profesionales e Industriales Paraguayos en Buenos Aires – APIP*) are run by Paraguayan citizens and have no consultative status for state organs.<sup>49</sup>

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41 Tribunal Superior de Justicia Electoral, *Resolución N° 32/2013, por la que se aprueba el reglamento para el voto de paraguayos residentes en el extranjero*. Capítulo I.

42 Tribunal Superior de Justicia Electoral, *Ley N° 834/96, que establece el Código Electoral Paraguayo*, Art. 15.

43 Ibid. Art. 55.

44 Partido Colorado, *Estatuto: Asociación Nacional Republicana / Partido Colorado*, Art. 67.

45 Ibid. Art. 114.

46 Ibid. Art. 110.

47 Partido Liberal Radical Auténtico, *Estatuto del Partido Liberal Radical Auténtico*, Art. 4.

48 Ibid. Art. 9c.

49 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 60.

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## ADMINISTRATION

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### CONSULATES

As of 2015, Paraguay has diplomatic representations in 40 countries, including 40 embassies and 32 consulates.<sup>50</sup>

According to a report by the International Organization for Migration,<sup>51</sup> 58% of all Paraguayan victims of human trafficking end up in Argentina, 23% end up in Bolivia and 15% in Spain; accordingly, Paraguayan consulates and embassies in these countries cooperate with local authorities to fight human trafficking and gender-based violence.<sup>52</sup>

Additionally, through its Veterans Office (*Oficina para Veteranos de Guerra*), the Paraguayan embassy in Argentina supports 9 veterans from the Chaco War (1932-1935) and 132 widows by processing certificates and compensation claims.<sup>53</sup>

### HOME COUNTRY ADMINISTRATION

The Directorate of Paraguayan Communities Abroad (*Dirección de Atención a las Comunidades Paraguayas en el Extranjero, DACPE*), located within the Ministry of Foreign Relations, is responsible for emigrant issues.<sup>54</sup> The directorate is an executive unit in the third rank of the administration.

Though this is the main body responsible for emigrant affairs, the Ministry of Internal Affairs (*Dirección General de Migraciones*) and the Secretariat of Development for Returnees and Refugees (*Secretaría de Desarrollo para Repatriados y Refugiados Connacionales*), subordinated to the president, also work with emigrants and returnees.

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## ECONOMIC POLICIES

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### REMITTANCES

No official program or strategy to attract remittances from emigrants was found. In 2009, 56.8% of all remittances sent to Paraguay came from Spain; 33.6% came from Argentina, and 3.2% came from the United States.<sup>55</sup>

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50 Ministerio de Relaciones Exteriores, “Embajadas paraguayas en el mundo”.

51 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 66.

52 See, for instance, Embajada del Paraguay en Argentina, “Lucha contra la trata de personas”; Embajada del Paraguay en España, “Combate a la violencia de género”.

53 Embajada del Paraguay en Argentina, “Veteranos de guerra”.

54 Ministerio de Relaciones Exteriores, “Organigrama”.

55 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 47.



Paraguay has the lowest banking coverage in Latin America, with 9 bank offices and 13 ATMs per 100,000 inhabitants (as opposed to the continental average of 12 bank offices and 36 ATMs per 100,000 inhabitants).<sup>56</sup> Given this modest coverage, less than 10% of all remittances are sent to Paraguay through banking channels.<sup>57</sup> Most remittances are sent through private financial entities, such as Western Union or MoneyGram. This may explain the inexistence of official channels to facilitate transfers.

### INVESTMENT

There are two government programs to attract investments from emigrants who plan on returning or have recently returned to Paraguay. The first program, *Mi País, Mi Casa*, is jointly administered by the *Secretaría de Desarrollo para Repatriados y Refugiados Connacionales* and the National Secretariat for Housing and the Environment (*Secretaría Nacional de la Vivienda y el Hábitat*). It provides mortgage loans to encourage construction and home ownership.<sup>58</sup> The second program, *Subsidio para MIPYMES*, also administered by the *Secretaría de Desarrollo para Repatriados y Refugiados Connacionales*, offers financial incentives for emigrants interested in starting a micro, small or medium business.<sup>59</sup>

### RETURN POLICIES

Along with Bolivia, Chile and fellow MERCOSUR countries, Paraguay has signed the *Protocolo de Integración Educativa y Reválida de Diplomas, Certificados, Títulos y Reconocimiento de Estudios de Nivel Medio Técnico*<sup>60</sup> to facilitate the recognition of primary and secondary education attained in the signatory countries. Additionally, for research and teaching purposes, Paraguayan universities automatically recognize undergraduate and graduate degrees obtained at universities in other Mercosur members.<sup>61</sup>

Furthermore, Paraguay adheres to the Apostille Convention, an international treaty that recognizes all public documents emitted by the signatory

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56 Centro de Estudios Monetarios Latinoamericanos, *Programa de aplicación de los principios generales para los mercados de remesas de América Latina y el Caribe - Paraguay*, 28.

57 Ibid. 27.

58 Embajada de la República del Paraguay en Italia, "Mi país, mi casa"; Secretaría de Desarrollo para Repatriados y Refugiados Connacionales, "¿Quiéres acceder a una vivienda en Paraguay?"

59 Secretaría de Desarrollo para Repatriados y Refugiados Connacionales, "Subsidio Para MIPYMES."

60 Mercosur, *Protocolo de integración educativa y reválida de diplomas, certificados, títulos y reconocimiento de estudios de nivel medio técnico*.

61 Mercosur, *Protocolo de integración educativo para proseguimiento de estudios de post grado en las universidades de los estados partes del MERCOSUR*; Mercosur, *Acuerdo de admisión de títulos y grados universitarios para el ejercicio de actividades académicas en los Estados partes del MERCOSUR*.

states.<sup>62</sup> This means that any academic or professional qualification obtained in another signatory party is automatically recognized in Paraguay.<sup>63</sup>

In the case of countries that have neither signed the Apostille Convention nor are part of Mercosur, the agency in charge of degree recognition is the Ministry of Education and Culture (*Dirección General de Educación Permanente*). All documents must first be translated into Spanish, presented at the consulate of Paraguay in the country where the degree was earned and then legalized by the Ministry of Foreign Relations. Once these measures are undertaken, the Ministry of Education and Culture is able to recognize the qualifications in about 10 days.<sup>64</sup>

The *Secretaría de Desarrollo para Repatriados y Refugiados Connacionales* does not actively advocate emigrants to return, as it assumes that Paraguay is traditionally a nation of migration (“*una nación históricamente migrante*”).<sup>65</sup> Nevertheless, the Migration Law states that Paraguay aims to create all conditions necessary for emigrants to return if they so choose.<sup>66</sup>

Even if Paraguay does not actively campaign for the return of emigrants, it attempts to facilitate their re-integration into society. In addition to the above-mentioned *Mi País*, *Mi Casa* and *Subsidio para MIPYMES* programs, the *Secretaría de Desarrollo para Repatriados y Refugiados Connacionales* offers the repatriation certificate. This certificate can be obtained free of charge and facilitates the reintegration of Paraguayan returnees by offering exemption from customs tax and covering professional training.<sup>67</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

According to the Constitution, military service is obligatory for all Paraguayans.<sup>68</sup> Every male citizen must enlist at age 18 and serve in the military for 12 months, after which he joins the reserve until reaching the age of 50. Emi-

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62 Hague Conference on Private International Law, “Convenio del 5 de octubre de 1961, suprimiendo la exigencia de legalización de los documentos públicos extranjeros.”

63 Ministerio de Relaciones Exteriores, “Apostilla o legalizaciones.”

64 Secretaría Nacional de Tecnologías de la Información y Comunicación, “Reconocimiento y/o convalidación de estudios académicos de un ciudadano de nacionalidad paraguaya o extranjera que cursaron estudios en el ámbito de educación permanente en el extranjero.”

65 Secretaría de Desarrollo para Repatriados y Refugiados Connacionales, “Misión y visión.”

66 Congreso de la Nación Paraguaya, *Ley N° 978/96 de Migraciones*, Art. 119.

67 Secretaría de Desarrollo para Repatriados y Refugiados Connacionales, “Certificado de Repatriación.”

68 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 129.

grants are also expected to comply with the regulations and must enlist at the nearest consulate.<sup>69</sup>

Those who are conscientious objectors may perform social service in lieu of military service without incurring any penalty.<sup>70</sup> One assumes the same conditions apply for emigrants, who must also comply with 12 months of social service.

Paraguayan fiscal legislation contains no emigrant-specific law. However, returning emigrants are allowed to enter the country with vehicles, machines and tools without paying taxes.<sup>71</sup>

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## CULTURAL POLICIES

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No cultural policies were found. The Migration Law states that embassies and consulates in countries with large Paraguayan communities must provide cultural services for the preservation of their national identity.<sup>72</sup> However, no cultural center abroad is effectively managed and funded by the Paraguayan state - all centers, such as the *Centro Paraguayo de New York*<sup>73</sup> or *Guaraní – Asociación de Cooperación Paraguay-España*,<sup>74</sup> are run by civil entities.<sup>75</sup>

Cultural promotion offices exist in countries with a high number of Paraguayan emigrants (such as Argentina, Spain, and the USA). The Paraguayan embassy in Buenos Aires, for instance, displays artwork at the *Salón Elviro Romero*, co-organizes film festivals (such as the *Muestra Cinematográfica Trinacional* in 2013), and represents Paraguay at book fairs. Likewise, the embassy in Madrid funds concerts and represents the country in tourism exhibitions.<sup>76</sup>

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## EXIT AND TRANSIT POLICIES

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No exit or transit policies were found. The official policy of Paraguay is to not actively discourage emigration, instead creating sufficient opportunities for citizens to stay if they choose to. The Migration Law states that as part of the Ministry of Interior Affairs, the Ministry of Migrations, with the voluntary participation of national institutions and international organizations, will study

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69 Congreso de la Nación Paraguaya, *Ley N° 569/75 del Servicio Militar Obligatorio*, Art. 1d.

70 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 129.

71 Congreso de la Nación Paraguaya, “Ley N°3958/09,” Art. 2.

72 Congreso de la Nación Paraguaya, *Ley N° 978/96 de Migraciones*, Art. 121.

73 El Centro Paraguayo de New York, [www.centroparaguayony.org](http://www.centroparaguayony.org).

74 Asociación Guaraní de Cooperación Paraguay, [www.asociacionguarani.com](http://www.asociacionguarani.com).

75 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 60.

76 Embajada del Paraguay en España, “Agenda Cultural”; Embajada del Paraguay en Argentina, “Espacio Cultural de la Embajada”.

the causes and consequences of emigration from Paraguay with the goal of preparing policies and programs aimed at retaining or repatriating emigrants.<sup>77</sup>

There is no coordinated information campaign to promote safe transit to the destination country. Nevertheless, Paraguayan embassies and consulates cooperate with local authorities to fight human trafficking and gender-based violence.<sup>78</sup>

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## SOCIAL POLICIES

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Employment and retirement benefits can be maintained in countries with which Paraguay has signed agreements. Thus far, Paraguay participates in the Multilateral Ibero-American Convention on Social Security and the MERCOSUR Multilateral Accord on Social Security.

Paraguay has also signed a bilateral social security agreement with the Netherlands.<sup>79</sup>

As for healthcare benefits, no similar agreement was found. In Argentina, the main destination of Paraguayan emigrants, only 11% of Paraguayans under 15, 26% of Paraguayans between 15 and 64, and 55% of Paraguayans over 65 have access to healthcare, suggesting that whatever program exists for non-resident citizens provides little coverage.<sup>80</sup>

As for education programs for emigrants, the *Revalorización de la Identidad Paraguaya en el Exterior* program distributes books, dictionaries, digital and audiovisual materials in Guaraní, one of Paraguay's two official languages (the other being Spanish). The main targets of this campaign are Guaraní teachers in Argentina.<sup>81</sup>

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## SYMBOLIC POLICIES

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No awards, national days, or symbolic territorial entities for emigrants were found; and even though the Constitution of Paraguay mentions migrations

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77 Congreso de la Nación Paraguaya, *Ley N° 978/96 de Migraciones*, Art. 119.

78 See, for example, Embajada del Paraguay en Argentina, "Lucha contra la trata de personas"; Embajada del Paraguay en España, "Combate a la violencia de género".

79 Congreso de la Nación Paraguaya, *Ley N° 3. 160, que aprueba el convenio sobre seguridad social entre la República del Paraguay y el Reino de los Países Bajos*.

80 International Organization for Migration, *Perfil migratorio de Paraguay 2011*, 39.

81 Secretaría de Desarrollo para Repatriados y Refugiados, "Repatriados y políticas lingüísticas distribuyen libros en guaraní a paraguayos residentes en Argentina"; Secretaría de Desarrollo para Repatriados y Refugiados, "Secretaría de Repatriados cierra primer año de gestión y presenta resultados."

in general<sup>82</sup> and internal migrations in particular,<sup>83</sup> it makes no reference to emigrants or emigration.

As stated previously, embassies and consulates are individually responsible for preserving the sentiment of belonging amongst emigrant citizens, though most of them do not seem to promote anything similar.<sup>84</sup>

Between 2008 and 2010, emigrant organizations held three Conventions on Paraguayan Emigrants (*Congresos de Emigrantes Paraguayos*) in Asunción. Several smaller conferences were also organized in France, Spain, and the United States. However, no authorities were involved in the organization; only civil society representatives.<sup>85</sup>

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82 Convención Nacional Constituyente, *Constitución de la República del Paraguay*, Art. 41.

83 Ibid. Art. 115, 16.

84 Congreso de la Nación Paraguaya, *Ley* N° 978/96 *de Migraciones*, 96, Art. 121.

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## PERU

Peru is historically a country of emigrants. By 2012, over 10% of the country's 30 million citizens lived abroad. Almost 80% of Peruvian emigrants are concentrated in five countries: Around 31.5% live in the United States, 16% in Spain, 14.3% in Argentina, 10.3% in Chile, and 9.8% in Italy.<sup>1</sup>

Aware of the relevance of its emigration phenomenon, the country has designed a wide range of policies aiming to link the state with its population abroad. Emigrant policies in Peru include the creation of channels for political participation such as external voting rights and consultative bodies, the development of an administration setting (at home and abroad) capable of designing emigrant policies, and the implementation of investment schemes to attract non-resident capital.

Although Peru has an extensive range of emigrant policies, it lacks policies on some of the policy dimensions analyzed in this book. For instance, although there is evidence of an important political competition abroad conducted by political parties, no explicit regulation of this matter has been found. Moreover, for some policies, such as the *Plan de Política Cultural del Perú en el Exterior*, there are no signs of programs effectively in place.

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### CITIZENSHIP/NATIONALITY

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#### DUAL OR MULTIPLE NATIONALITY REGULATION

There are no legal obstacles for holding or acquiring another nationality and this does not result in the loss of Peruvian nationality or citizen rights.<sup>2</sup>

In general terms, native Peruvians must either be born in Peru or born abroad to a Peruvian parent and registered at the nearest Peruvian consulate before turning 18. Nevertheless, this is only valid for the first three generations, as established by the Nationality Law.<sup>3</sup>

#### LOSS OF CITIZENSHIP/NATIONALITY

Permanent residence abroad does not lead to loss of nationality. According to the Nationality Law, Peruvians can only lose their nationality by explicitly renouncing it.<sup>4</sup> Even in such cases, former Peruvians who regret renouncing

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1 International Organization for Migration, *Perfil migratorio de Perú 2012*, 29 and 84.

2 Presidente de la República, *Decreto Supremo N° 004-97-IN. Aprueban el reglamento de la Ley de Nacionalidad*, Art. 31 and 33.

3 Congreso de la República del Perú, *Ley N° 26574. Ley de Nacionalidad*, Art. 2, item 3.

4 Ibid. Art. 7.

to their nationality can regain it.<sup>5</sup> Nevertheless, Peruvians *by naturalization* can lose their nationality if they are considered to pose a threat to national security or diplomatic relations.<sup>6</sup>

#### DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

Peru is a rare case of dormant citizenship for dual nationals: Individuals with dual nationality exercise the rights and duties valid in their country of residence.<sup>7</sup> Meanwhile, individuals holding only Peruvian citizenship always have the same rights, whether they live abroad or not.

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### SUFFRAGE

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#### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Peruvians abroad can vote for national referenda and general elections.<sup>8</sup>

Voting is compulsory until the age of 70, after which it becomes optional.<sup>9</sup> Non-compliance results in a fine.<sup>10</sup>

#### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

Non-resident citizens have the same candidacy rights as residents. This applies for both presidential<sup>11</sup> and national legislative elections.<sup>12</sup>

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Peruvian emigrants can vote in embassies/consulates<sup>13</sup> or by sending their vote by post to the consulate where they are registered.<sup>14</sup>

#### REGISTRATION FOR FRANCHISE

Registration for franchise is automatic for resident and non-resident citizens. The same conditions apply for both. Non-residents must register in the National Identification Registry.<sup>15</sup> This agency is then responsible for the electoral register.<sup>16</sup>

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5 Ibid. Art. 8.

6 Presidente de la República, *Decreto Supremo N° 004-97-IN. Aprueban el reglamento de la Ley de Nacionalidad*, Art. 12.

7 Congreso de la República del Perú, *Ley N° 26574. Ley de Nacionalidad*, Art. 10.

8 El Congreso Constituyente Democrático, *Ley Orgánica de Elecciones*, Art. 224.

9 El Congreso Constituyente Democrático, *Constitución Política del Perú*, Art. 31.

10 El Congreso Constituyente Democrático, *Ley Orgánica de Elecciones*, Art. 240.

11 El Congreso Constituyente Democrático, *Constitución Política del Perú*, Art. 110.

12 Ibid. Art. 90.

13 El Congreso Constituyente Democrático, *Ley Orgánica de Elecciones*, Art. 226.

14 Ibid. Art. 239.

15 Ibid. Art. 224, 228, and 229.

16 El Congreso Constituyente Democrático, *Constitución Política del Perú*, Art. 183.

## MODE OF REPRESENTATION

Non-resident votes are counted separately from in-country votes and then incorporated into the totals of the district of Lima.<sup>17</sup> However, there is currently a project in the Peruvian Congress to create an external district. By the time of writing this chapter, the project has not been approved.<sup>18</sup>

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

The Law on Political Parties does not mention external party offices.<sup>19</sup> In its statute, the Peruvian Nationalist Party (*Partido Nacionalista Peruano*) explicitly encourages the formation of political committees in foreign countries.<sup>20</sup> Likewise, Popular Force (*Fuerza Popular*), states that party locales can be established anywhere in or outside Peru.<sup>21</sup> Alliance for Progress (*Alianza para el Progreso*) also mentions political committees in foreign countries; its statute even lists the return of Peruvians abroad as one of the party's goals.<sup>22</sup> Finally, the Peru Possible (*Perú Posible*) party designates its National Secretariat for International Relations as responsible for fostering the creation of foreign committees.<sup>23</sup>

In practice, only the Peruvian Nationalist Party has committees in Spain and the United States,<sup>24</sup> though it is hard to say whether these committees are active or not. Their activity is most likely restricted to the electoral period. Political committees from other parties were not found.

Every party represented in the Peruvian Congress is entitled to public funding. There is no specific mention of external party offices. The Law on Political Parties does not reference external offices,<sup>25</sup> suggesting that the money may be distributed as the party may deem fit.

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17 El Congreso Constituyente Democrático, *Ley Orgánica de Elecciones*, Art. 21.

18 El Congreso Constituyente Democrático, *Dictamen de proyectos de ley para la creación del distrito electoral de los peruanos en el exterior*.

19 Congreso de la República del Perú, *Ley N° 28094 - Ley de Partidos Políticos*.

20 Partido Nacionalista Peruano, *Estatuto*, Art. 15.

21 Fuerza Popular, *Estatuto de Fuerza 2011*, Art. 3.

22 Alianza para el Progreso, *Estatuto*, Art. 4, 8- 27e.

23 Perú Posible, *Estatuto*, Art. 58.

24 See, for instance, <https://www.facebook.com/pages/Partido-Nacionalista-Peruano-USA/200868986630484> or <https://www.facebook.com/PNPCPIABL>.

25 Congreso de la República del Perú, *Ley N° 28094 - Ley de Partidos Políticos*, Art. 32.

## POLITICAL CAMPAIGNS

The Law on Political Parties makes no mention of political campaigns abroad.<sup>26</sup>

## MEMBERSHIP

According to their statutes, the two main parties – the Peruvian Nationalist Party and Popular Force – do not restrict the affiliation of non-residents or their candidacy rights for internal posts.<sup>27</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

The Consultative Councils of Peruvian Communities Abroad (*Consejos de Consulta de las Comunidades Peruanas en el Exterior*) constitute consultative bodies for emigrant representation acting at the national level. This consultative body was created in 2010 to strengthen the dialogue between consulates and citizens living within their respective jurisdictions.<sup>28</sup> The consultation of this body is structural: Its members must meet with the head of consular affairs at least once a month.<sup>29</sup> Members are elected by emigrants, during elections organized every September by the head of consular affairs.<sup>30</sup> Though the consultative body works closely with the local head of consular affairs, it is effectively chaired by the participants themselves. The councils are neither extensions of the Peruvian state, nor of any consular office, yet they do have the task of supporting the tasks of legal protection and assistance to Peruvians abroad.<sup>31</sup>

The consultative bodies are decentralized; every consular jurisdiction has one of its own and no general meetings are envisioned. The number of members per council depends on how many Peruvians are registered under one particular jurisdiction: In jurisdictions with less than 5,000 registered Peruvians, the consultative body has 3 members; in jurisdictions with 5,000 to 20,000 registered citizens, the consultative body has 5 members; in jurisdictions with over 20,000 registered citizens, the consultative body is comprised

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26 Ibid.

27 Partido Nacionalista Peruano, *Estatuto* Art. 33, 44; Fuerza Popular, *Estatuto de Fuerza 2011*, Art. 6, 72.

28 El Congreso Constituyente Democrático, *Ley de los Consejos de Consulta de las Comunidades Peruanas en el Exterior*.

29 Presidente de la República, *Decreto Supremo N° 057-2010-RE. Aprueban reglamento de la Ley de los Consejos de Consulta de las Comunidades Peruanas en el Exterior*, Art. 26.

30 Ibid. Art. 13.

31 Ibid. Art. 8; El Congreso Constituyente Democrático, *Ley de los Consejos de Consulta de las Comunidades Peruanas en el Exterior*, Art. 4.

of 9 representatives.<sup>32</sup> These multiple *Consejos de Consulta* may establish independent working groups, but only with the consent of the head of consular affairs.<sup>33</sup> The consultative body must refrain from addressing any issues other than those it was created for and does not have the right to get a response from national authorities to its advice or recommendations.<sup>34</sup>

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## ADMINISTRATION

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### CONSULATES

As of 2015, Peru's diplomatic network consisted of 234 consulates and 58 embassies in 58 countries.<sup>35</sup>

Consulates do not offer any legal or psychological consultancy.<sup>36</sup> However, financial consultancy is provided: As examples, the consulate in Madrid organizes the *Negocios en Perú* program and the consulate in the Netherlands runs a training program called *Capacitación para la Constitución de Empresas* for Peruvian emigrants in that country. In Japan, a country with which Peru shares an important history of migration, Peruvian consulates provide non-traditional services such as: *Registro de Estudiantes Peruanos en Japón*, *Biblioteca Virtual de Tesis de Peruanos en Japón*, and *Voluntariado de Estudiantes*. Moreover, since 2012, the embassy of Peru in Japan carries out charitable activities for scholarships to finance Peruvian students in Japanese schools with Peruvian curricula.<sup>37</sup>

Peru also offers online consular services, as well as mobile consulates, weekend working hours on a regular basis, and special health services in the format of *Ventanillas de Salud*.<sup>38</sup>

### HOME COUNTRY ADMINISTRATION

In Peru, the General Directorate of Peruvian Communities Abroad and Consular Affairs represents the government in emigrant issues. It is an executive

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32 Ibid. Art. 18.

33 Ibid. Art. 28.

34 Ibid. Art. 10.

35 Ministerio de Relaciones Exteriores del Perú, "Consulados de Perú en el mundo"; Ministerio de Relaciones Exteriores del Perú, "Embajadas Del Perú en el mundo."

36 Ministerio de Relaciones Exteriores del Perú, "Servicios al ciudadano del Ministerio de Relaciones Exteriores del Perú."

37 Peruanos en el Exterior, "Primer conversatorio de estudiantes peruanos en Japón."

38 Consulado General del Perú en Boston, "Datos del Consulado General del Perú en Boston. Ventanilla de salud"; Consulado General del Perú en Ginebra, "Servicios en línea"; Consulado General del Perú en Miami, "Oficinas móviles del Consulado General del Perú en Miami"; Consulado General del Perú en Atlanta, "Sábados consulares 2015."

unit at the third rank of Peruvian public administration that addresses consular issues, international migrations, and the protection and assistance of Peruvians abroad.<sup>39</sup>

This department directly depends on the Vice-Ministry of Foreign Affairs and is subdivided into a Directorate of Consular Policy and a Directorate for Protection and Assistance to Nationals.<sup>40</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

There is no official government strategy to *attract* remittances, only to *invest* them. Likewise, no special banking channels have been opened as a result of state intervention, possibly because 94-96% of all remittances are paid in cash. After all, only a small number of Peruvians have access to a bank account.<sup>41</sup>

### INVESTMENT

*Concurso Emprende con Remesas*, an ad-hoc strategy promoted by the Ministry of Labor, targets Peruvian returnees who want to invest their savings or Peruvian families who want to invest the remittances received from their emigrant relatives. The program assists the development and implementation of 200 business plans by offering additional funding and technical assistance. It is part of a broader plan, the *Plan de Actuación para la Promoción del Autoempleo Productivo para Retornantes y Familiares Peruanos en el Exterior*.<sup>42</sup>

*Fondo MiVivienda*, administered by the Ministry of Housing, Construction, and Sanitation, was not originally created with emigrants in mind. Nevertheless, it was expanded to offer credit for non-residents interested in buying real estate in Peru. The main advantage is that emigrants no longer need relatives in Peru and can now purchase a house directly and obtain a mortgage in their name.<sup>43</sup>

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39 El Presidente de la República del Perú, *Reglamento de organización y funciones del Ministerio de Relaciones Exteriores*, Arts. 115-121.

40 Ministerio de Relaciones Exteriores del Perú, "Organigrama principal del Ministerio de Relaciones Exteriores."

41 Banco Interamericano de Desarrollo, "Programa de mejora de la información y procedimientos de los bancos centrales en el área de remesas - Perú," 32.

42 Ministerio de Trabajo y Promoción del Empleo, "Bases del concurso de planes de negocio 'Emprende con remesas'"; Ministerio de Trabajo y Promoción del Empleo, "Nota de Prensa: Concurso emprende con remesas recibirá planes de negocio hasta el 6 de diciembre"; Ministerio de Trabajo y Promoción del Empleo, *Resolución Directoral N° 01-2013-MTPE/3/17. Plan de actuación para la promoción del autoempleo productivo para retornantes y familiares de peruanos en el exterior*.

43 Gustavo González de Otoya, "Peruanos residentes en el exterior - Carta fondo Mi-

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

The Peruvian Fund for Innovation, Science, and Technology (*Fondo para la Innovación, la Ciencia y la Tecnología, FINCyT*) offers sporadic scholarships for Peruvian researchers interested in returning to their country. However, the program has been criticized for its inability to create attractive return conditions, as it offers low funding (USD \$3,000/month) for a maximum of 2 years.<sup>44</sup>

### RETURN POLICIES

In order to facilitate the recognition of academic and professional qualifications acquired abroad, Peru has signed the Hague Convention abolishing the Requirement of legalization for Foreign Public Documents. The General Directorate of Consular Policy, under the Ministry of Foreign Affairs, is the competent authority for issuance of certificates.<sup>45</sup> The maximum period of time in which the applications for government recognition of academic and professional qualifications must be resolved is 15 days.<sup>46</sup>

Though no communication campaigns aiming to convince emigrants to return to home country seem to exist, returning emigrants is a big issue in Peru, as evidenced by the large amount of programs and policies that aim to facilitate the re-integration of returnees. The Ministry of Foreign Affairs, along with the president and the Congress make coordinated efforts to assist Peruvians who decide to, or are forced to, return to the country.<sup>47</sup> In 2014, the Ministry of Labor published the Basic Guide for Returning Peruvians (*Guía Básica para el Migrante Laboral*).<sup>48</sup>

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

In Peru, military service is not compulsory.<sup>49</sup> However, every Peruvian citizen – male or female – must register at the Military Register after turning 17 and

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Vivienda”; Vanessa Ochoa, “Fondo MiVivienda Entrega Primer Crédito a Migrante.”

44 Roberto Rosado, “Solo 4 científicos fueron repatriados por el estado en el 2013”; Fondo para la Innovación, la Ciencia y la Tecnología (FINCyT), “Concurso para becas de repatriación de investigadores peruanos.”

45 Hague Conference on Private International Law, “Convenio de 5 de octubre de 1961 Suprimiendo la exigencia de legalización de los documentos públicos extranjeros.”

46 SUNEDU, “Requisitos para el reconocimiento de grados académicos y títulos profesionales extranjeros.”

47 Ministerio de Relaciones Exteriores del Perú, “Ley del Retorno Perú.”

48 Ministerio de Trabajo del Perú, “Guía básica para el retornante peruano 2014.”

49 El Presidente de la República del Perú, *Decreto Legislativo que modifica la Ley N° 29248, Ley del Servicio Militar*.



will be drafted in case of need.<sup>50</sup> In any event, military service is not obligatory for individuals living abroad.<sup>51</sup> There is no social service, only a volunteer service.<sup>52</sup>

Peruvian emigrants do not have to pay any taxes in their home country.

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### CULTURAL POLICIES

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In 2003, the *Plan de Política Cultural del Perú en el Exterior* was conceived by the Ministry of Foreign Relations to promote Peruvian gastronomy, music, literature, cinema, and visual arts in foreign countries. The plan intended to create cultural centers to serve as international branches of the *Centro Cultural Inca Garcilaso* (in Lima), with exhibitions, documentation centers, bookshops, restaurants, and handcraft stores.<sup>53</sup> These centers would work in cooperation with the consulates in cities like Bogotá, Buenos Aires, La Paz, Madrid, Quito, and Santiago. Notwithstanding these professed ambitions, no official cultural center existed in any of these cities as of 2015, nor did any cultural promotion offices within consulates. In fact, no aspect of the *Plan de Política Cultural* has been implemented so far. While consulates seem to promote cultural events (such as concerts or film festivals) on an ad hoc basis, these do not target the emigrant community especially<sup>54</sup> and the only actual cultural centers or cultural programs in existence are managed by the Peruvian community.<sup>55</sup>

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### EXIT AND TRANSIT POLICIES

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Peruvian governmental agencies focus on promoting safe transit and legal migration. The Ministry of Labor, for instance, publishes the *Guía Básica para el Migrante Laboral* brochure,<sup>56</sup> offering extensive information on labor rights and administrative procedures for emigrants. The brochure is part of the

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50 Ibid. Art. 2.

51 Ibid. Art. 50.

52 Congreso de la República del Perú, *Ley No. 28238: Ley General del Voluntariado (con modificaciones)*.

53 Ministerio de Relaciones Exteriores, “Plan de política cultural del Perú en el exterior,” 13.

54 See <http://www.embassyofperu.org/es/culture/> and <http://www.botschaft-peru.de/>.

55 See, for instance, <http://centroculturalperu.org/> and <http://ccperu-munich.de/>.

56 Ministerio de Trabajo y Promoción del Empleo, “Guía básica para el migrante laboral”; Ministerio de Trabajo y Promoción del Empleo, “Servicio de Orientación para el Migrante (SOM).”

Orientation Service for Migrants (*Servicio de Orientación para el Migrante*), which includes an online platform to facilitate an eventual return of emigrants.<sup>57</sup> Additionally, the Office of the Ombudsman publishes the *Guía Básica para la Persona Migrante* brochure. The brochure aims to inform present or potential emigrants of their rights. It offers safety recommendations, answers bureaucratic questions, and lists Peruvian authorities that should be contacted in case of emergency. Additionally, one of the chapters centers on illegal migration, warning potential migrants against the risks of human trafficking and border crossing with falsified documentation.<sup>58</sup>

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## SOCIAL POLICIES

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Peru has signed the Multilateral Ibero-American Social Security Agreement,<sup>59</sup> in addition to bilateral social security agreements with several countries.

Moreover, Peru has implemented a very comprehensive education program for emigrants, the *Programa de Educación a Distancia*. This distance learning program offers primary and secondary education for Peruvian emigrants. The curriculum is designed in accordance with the guidelines of the Peruvian Ministry of Education. It is authorized by the Ministry of Foreign Affairs and managed by different education institutions, such as the *Liceo Naval Almirante Guise*, which is present in 28 countries.<sup>60</sup>

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## SYMBOLIC POLICIES

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Peru celebrates the Day of Peruvians Residing Abroad (*Día de los Peruanos que Residen en el Exterior*) on October 18, in order to pay tribute to emigrants.<sup>61</sup> As part of this celebration, Peruvian emigrants are eligible for some awards; the Ministry of Foreign Affairs awards the *Reconocimiento de los peruanos que residen en el exterior* to Peruvians who have succeeded in adapting to the culture of their host country and/or migratory situation.<sup>62</sup> The non-governmental or-

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57 See [http://www.trabajo.gob.pe/migrante/plataforma\\_retorno\\_productivo\\_1.php](http://www.trabajo.gob.pe/migrante/plataforma_retorno_productivo_1.php).

58 Defensoría del Pueblo del Perú, “Guía básica para la persona migrante.”

59 Revista Seguridad Social Activa - Internacional, “El Marco Iberoamericano de Protección Social.”

60 Liceo Naval Almirante Guise, “Presentación: Educación a Distancia.”

61 El Presidente de la República del Perú, *Declaran el 18 de octubre de cada año como “Día de los peruanos que residen en el exterior”*; “Día de los peruanos en el exterior.”

62 Mesa de Trabajo Intersectorial para la Gestión Migratoria, “Premio ‘Reconocimiento de los peruanos que residen en el exterior’.”; “Directiva para el Reconocimiento de los peruanos o peruanas que residen en el exterior.”

ganization *Anna Lindh* presents the *Orgullo Peruano* every year to those who have distinguished themselves in various fields and promoted the image of Peru abroad.<sup>63</sup>

The Peruvian government and emigrant associations in many countries around the world including the United States,<sup>64</sup> Italy,<sup>65</sup> and Chile<sup>66</sup> organize conferences relating to emigrant issues.

During the Peruvian National Holidays (*Fiestas Patrias*), emigrant celebrations are found in many cities around the world.<sup>67</sup>

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63 RPP NOTICIAS, “Premio ‘Orgullo Peruano 2013’.”

64 NuestraGenteDigital.com, “Exitoso forum de peruanos en el exterior.”

65 Peruanos en el Exterior.com, “I Encuentro de empresarios y ejecutivos peruanos en Roma con instituciones del gobierno peruano.”

66 Contigo Perú, “Secretaría de Migrantes: Encuentros.”

67 Peruanos en el Exterior.com, “Peruanos en el exterior celebraron fiestas patrias en diversas ciudades del mundo.”

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# TRINIDAD AND TOBAGO

The diaspora of Trinidad and Tobago is concentrated in four countries: the United States (65,9%), Canada (18,1%), the United Kingdom (8,4%), and Jamaica (1.3%).<sup>1</sup> When compared to other Caribbean nations, Trinidad and Tobago has invested very little in emigrant policies: external voting is not allowed and there is neither a consultative body for emigrant representation nor an official administration for emigrant issues. The state promotes no cultural programs and offers emigrants little incentive to return nor has it implemented any symbolic policies. Trinidad and Tobago has, however, signed agreements with states of reception, such as Canada, to guarantee the access of non-residents to a pension system, in the state of reception or of origin. It also allows dual nationality for nationals by birth, and has clear protocols to recognize skills and degrees obtained in other Caribbean states.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

According to the 1976 Constitution, citizens of Trinidad and Tobago must either be born in Trinidad and Tobago or born abroad to citizens of Trinidad and Tobago.<sup>2</sup> Additionally, Commonwealth citizens, citizens of the Republic of Ireland and British protected persons are entitled to citizenship by registration if they reside in Trinidad and Tobago for five years and fulfill certain prerequisites; the same prerequisites apply for foreigners from other countries, who are entitled to citizenship by naturalization, though only after seven years.<sup>3</sup>

Between August 31, 1962 (independence) and July 29, 1988, citizens of Trinidad and Tobago had to renounce their citizenship whenever they acquired “the citizenship of another country by voluntary act other than marriage.”<sup>4</sup> However, the Citizenship Act was amended in 1988, and now dual citizenship is permitted in certain cases.<sup>5</sup> Likewise, former citizens by birth who renounced their citizenship between 1962 and 1988 can now apply to re-acquire it.<sup>6</sup> Again, this is only valid for citizens by birth; citizens

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1 Anatol, Kirton, and Nanan, *Becoming an Immigration Magnet: Migrants' Profiles and the Impact of Migration on Human Development in Trinidad and Tobago*, 44f.

2 Ministry of Legal Affairs, *Constitution of the Republic of Trinidad and Tobago*, Art. 17.

3 Ministry of Legal Affairs, *Citizenship of the Republic of Trinidad and Tobago Act*, Art. 7, 12.

4 Ibid. Art. 11 (1).

5 Ibid. Art. 11 (2C).

6 Ibid. Art. 11 (2A).



by registration or naturalization still lose their citizenship if they acquire the citizenship of another country.

As stated above, national citizens must either be born within national territory or born abroad to national citizens.<sup>7</sup> Nevertheless, a child born outside Trinidad and Tobago to a citizen *by descent* may apply for a certificate of citizenship. In practice, then, there is no limit to obtaining citizenship, as long as the authorities grant the abovementioned certificate.<sup>8</sup>

#### **LOSS OF CITIZENSHIP/NATIONALITY**

The Citizenship Act does not envision the loss of citizenship under any circumstances for citizens by birth.<sup>9</sup> Citizens by registration or naturalization or individuals whose citizenship was restored after 1988, may have their citizenship revoked if authorities deem that the citizenship was obtained under false pretenses.<sup>10</sup>

#### **DIFFERENT RIGHTS FOR EXTERNAL CITIZENS**

When it comes to the rights and duties of citizenship, no differentiation is made between internal and external citizens.

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### **SUFFRAGE**

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#### **VOTING RIGHTS OF NON-RESIDENT CITIZENS**

Non-resident citizens have no voting rights. According to the Elections and Boundaries Commission,<sup>11</sup> voters must be aged 18 or older and live within an electoral district or constituency for at least two months. If these criteria are fulfilled, the following individuals have voting rights: a) citizens of Trinidad and Tobago; b) citizens of the Commonwealth, provided they reside legally in Trinidad and Tobago for at least one year; c) non-Commonwealth citizens, provided they reside legally in Trinidad and Tobago for at least five years.

#### **CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS**

A person who cannot register as an elector in Parliamentary elections cannot be elected President or to the House of Representatives.<sup>12</sup> Accordingly, non-residents, who cannot register as electors, have no candidacy rights.

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7 Ministry of Legal Affairs, *Constitution of the Republic of Trinidad and Tobago*, Art. 17.

8 Ministry of Legal Affairs, *Citizenship of the Republic of Trinidad and Tobago Act*, Art. 5 (1).

9 Ibid. Part. II.

10 Ibid. Art. 14 (2).

11 Elections and Boundaries Commission, "FAQ."

12 Ministry of Legal Affairs, *Constitution of the Republic of Trinidad and Tobago*, Art. 48 (1).

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## REGULATION OF POLITICAL COMPETITION

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### PARTY OFFICES IN HOST COUNTRIES

The Representation of the People Act makes no reference to external political parties, suggesting that they are allowed.<sup>13</sup>

Trinidad and Tobago is de facto a two-party system and neither the ruling party, *United National Congress* (part of the *People's Partnership* coalition), nor the opposition *People's National Movement*, make any reference to foreign offices in their statutes or websites.<sup>14</sup>

Nevertheless, public funding does not exist in Trinidad and Tobago,<sup>15</sup> though party leaders have been known to undertake fundraising abroad in places with high numbers of Trinidadian and Tobagonian emigrants, though these initiatives are rarely accounted for.<sup>16</sup> External actors, such as the Commonwealth Observer Group, have criticized the lack of transparency in matters of funding.<sup>17</sup>

### POLITICAL CAMPAIGNS

The Representation of the People Act makes no reference to external political campaigns and there is no record of any campaign conducted abroad.<sup>18</sup>

### MEMBERSHIP

The Representation of the People Act makes no reference to party membership,<sup>19</sup> nor do the web pages of the two main parties – *People's National Movement* and *United National Congress*.<sup>20</sup>

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## ADMINISTRATION

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### CONSULATES

As of 2015, Trinidad and Tobago's diplomatic network comprises eight embassies (Belgium, Brazil, China, Costa Rica, Cuba, Panama, the United States,

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13 Ministry of Legal Affairs, *Representation of the People Act*.

14 See <http://unctt.org/> and <http://www.pnm.org.tt/>, respectively.

15 Ryan, "Political Party and Campaign Financing in Trinidad & Tobago," 31.

16 Ibid. 30.

17 Commonwealth Observer Group, "The Trinidad and Tobago General Election 11 December 2000," 16.

18 Ministry of Legal Affairs, *Representation of the People Act*.

19 Ibid.

20 See note 14.

and Venezuela), seven High Commissions<sup>21</sup> (Canada, India, Jamaica, Nigeria, South Africa, Uganda, and United Kingdom) and three consulates (New York, Miami, and Toronto).<sup>22</sup> These diplomatic missions offer neither legal consultancy nor financial or psychological assistance.<sup>23</sup>

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## ECONOMIC POLICIES

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### REMITTANCES

There is no government strategy to attract remittances.

### INVESTMENT

No investment program targets emigrants in particular.

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Trinidad and Tobago has not adopted an active brain-gain or brain-circulation policy, as opposed to other members of the Caribbean Community (CARICOM), such as Jamaica. The national strategic plan *Vision 2020* identified the need to address brain-drain and reduce the emigration of skilled labor,<sup>24</sup> but proposed no concrete measure to do so. The plan was ultimately replaced in 2011.<sup>25</sup>

In 2003, the Health Ministers of the Commonwealth countries adopted a code of practice discouraging the international recruitment of health workers from countries experiencing shortages.<sup>26</sup> The code also safeguards the rights of recruited health workers and establishes standards for their working conditions. While this code does not promote return or circulation, it aims at reducing the number of highly qualified emigrants.

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21 High Commissions are diplomatic missions sent to fellow Commonwealth members. For more information, see <http://www.politics.co.uk/reference/embassies-high-commissions-and-consulates>.

22 Trinidad & Tobago Ministry of Foreign Affairs, "Trinidad and Tobago Diplomatic Missions."

23 Consular Affairs Division of Trinidad and Tobago, "Ensuring Respect for the Rights of Nationals"; Trinidad & Tobago Ministry of Foreign Affairs, "About the Ministry of Foreign Affairs."

24 Reis, "Vision 2020: The Role of Migration In Trinidad and Tobago's Plan for Overall Development," 6; Ministry of Planning, Housing and the Environment, "Vision 2020 Operational Plan 2007-2010. 2008-2009 Progress Report," 203.

25 Shah, "T&T PM Replaces Vision 2020."

26 Commonwealth Secretariat, "Commonwealth Code of Practice for the International Recruitment of Health Workers."

## RETURN POLICIES

Trinidad and Tobago issues a Skill Certificate to recognize professional and academic qualifications obtained abroad to skilled migrants nationals of another CARICOM Single Market and Economy (CSME) member state. There are no fees for the application or issue of the Certificate. Applications are reviewed on a monthly basis and the government assures that, if the application is successful, the Certificate will be issued in six to eight weeks.<sup>27</sup>

There appears to be no communication campaigns aiming to convince emigrants to return to Trinidad and Tobago, nor any program to facilitate the reintegration of returnees.

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

There is no compulsory military or social service in Trinidad and Tobago.<sup>28</sup>

With regard to income taxes, nationals of Trinidad and Tobago living abroad for more than 183 days per year who do not have any economic activity within the country are not subject to income taxes. However, nationals that have resided less than 183 days in Trinidad and Tobago, and have a source of income in the country, are subject to income taxes unless they qualify for a specific legal exemption. Nationals in this situation must visit the International Tax Unit of the Inland Revenue Division (IRD) to determine their tax liability in Trinidad and Tobago.<sup>29</sup>

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## EXIT AND TRANSIT POLICIES

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There are no mobility restrictions for citizens who want to go abroad. While the now defunct program *Vision 2020* aimed to reduce the emigration of skilled labor,<sup>30</sup> it did not say exactly how this goal should be accomplished and ultimately failed to meet any of the established targets related to emigration.<sup>31</sup>

While undocumented migration, people smuggling, and human trafficking are problems faced by Trinidad and Tobago, they generally affect immi-

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27 Trinidad & Tobago Ministry of Foreign Affairs, "CSME Overview."

28 Government of the Republic of Trinidad and Tobago, "Recruitment Process for Trinidad and Tobago Regiment."

29 Ministry of Finance and the Economy, "Tax Evaluation of Non-Residents."

30 Reis, "Vision 2020: The Role of Migration in Trinidad and Tobago's Plan for Overall Development," 5.

31 Ministry of Planning, Housing and the Environment, "Vision 2020 Operational Plan 2007-2010. 2008-2009 Progress Report."

grants from Guyana, Grenada, Jamaica, and China, rather than emigrants.<sup>32</sup> This could explain why Trinidad and Tobago has no information campaign to promote safe transit of its own citizens to other countries.

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### SOCIAL POLICIES

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There exists a regional regulation on this issue, namely the CARICOM Agreement on Social Security of April 1997.<sup>33</sup> The Agreement is in effect in Trinidad and Tobago. It allows CARICOM countries to coordinate their social security programs and refers to payments of pensions for invalidity, disablement, old age or retirement, survivors' benefits, and death benefits.

Furthermore, Trinidad and Tobago signed a bilateral agreement on social security with Canada,<sup>34</sup> one of the main host countries for emigrants from Trinidad and Tobago. The agreement came into force on July 1, 1999. The agreement allows Trinidadian and Tobagonian emigrants to combine and export pension benefits accumulated in Trinidad and Tobago and Canada. .

No information was found on the possibility of maintaining healthcare benefits after emigration. No educational programs were found, either. A significant number of returned emigrants – 51.3% in Trinidad and 43.8% in Tobago – obtained educational or work qualifications while living abroad,<sup>35</sup> yet none of these qualifications seem to have been sponsored or administered by the Trinidadian government.

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### SYMBOLIC POLICIES

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Trinidad and Tobago does not have any symbolic policies.

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32 Waldropt-Bonair et al., "Invisible Immigrants. A Profile of Irregular Migration, Smuggling of Migrants and Trafficking in Persons in Trinidad and Tobago," 13, 18.

33 Caribbean Community Secretariat, "Social Security in CARICOM."

34 Service Canada, "Agreement on Social Security between Canada and Trinidad and Tobago."

35 Anatol, Kirton, and Nanan, *Becoming an Immigration Magnet: Migrants' Profiles and the Impact of Migration on Human Development in Trinidad and Tobago*, 67.

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## URUGUAY

Like its neighbors Argentina and Brazil, Uruguay was an immigrant nation up until the 1960s, when political and socioeconomic instabilities reversed the migration flows. The most important outflows occurred after the coup d'état in 1973, but also after the crises of 1982 and 2002. Historically speaking, most Uruguayans left for Argentina, Spain, and the United States. In 1996, around 15% of Uruguayan nationals lived abroad. This percentage may have reached 18% between 1996 and 2004. However, given the recent crises in Argentina and Spain, and considering the recent economic growth and low unemployment rates in Uruguay, many emigrants are gradually returning.<sup>1</sup>

Beginning in 2005, the Uruguayan state began developing policies towards its emigrants, administered within the *Departamento 20 - La patria peregrina* program. This entailed reorganizing its links to the diaspora through consultative councils, which are spaces designed for participation and the representation of emigrants. These councils are chaired by emigrants themselves and meet biennially at events attended by the president of Uruguay. Moreover, Uruguay also reformed its consular and ministerial network to establish an enduring relationship between the state and its emigrants. This late reorganization in the home and external administration was imperative to restore confidence in the state among emigrants because, during the dictatorship, those very structures were used to transmit information on exiles to track them down.<sup>2</sup> When it comes to emigrant policies, Uruguay scores high in terms of administration (having created three different offices to cover different aspects of linkages with emigrants), and brain circulation (having established in 1986 one of the pioneer programs for the repatriation of scientists, in collaboration with the IOM). In general terms, Uruguay properly stands out for its return policies, which started as early as 1985, when the National Commission for Repatriation was created to coordinate efforts of several public administration agencies and NGOs towards a quick reinsertion of Uruguayans returning after the dictatorship.<sup>3</sup> It prides itself on being the Latin American country with the highest number of international retirement agreements<sup>4</sup> and invests massively, or certainly more than other countries in relative terms, in the dimension of return policies. The Office of Return and Welcome (*Oficina de*

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1 International Organization for Migration, *Perfil migratorio de Uruguay*, 5.

2 Crosa, "Transnacionalismo migrante: políticas de vinculación del Estado uruguayo y movimiento asociativo de uruguayos en Argentina." Crosa, "Transnacionalismo migrante."

3 Vaccotti, "Transnacionalismo, emigración internacional y políticas de vinculación en Uruguay."

4 Ministerio de Relaciones Exteriores, "Servicios al ciudadano: Jubilarse en el exterior."



*Retorno y Bienvenida*), created in 2008 within the Ministry of Foreign Affairs, publishes regular statistics on returnees and offers services such as job placement or skill acquisition.<sup>5</sup> In general terms, Uruguayan emigrant policies are very transparent, coordinated, and accessible.

However, non-resident Uruguayans still lack the right to vote abroad. The governing left-wing Broad Front (*Frente Amplio*) party tried to implement external voting twice, in 2005 and 2009, but the bill was shot down on both occasions. The difficulty in putting this issue on the legislative agenda, as well as in front of voters, seems to be a political matter: Emigrants are historically associated with the left, as a high number of left-wing Uruguayans emigrated during the civic-military dictatorship (1973-1985) and remain mobilized abroad for left-wing parties, notably the Broad Front.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

The legislation of Uruguay distinguishes between nationality and citizenship.

The Nationality Law dictates that one only has Uruguayan nationality when born in Uruguay, or born elsewhere to a Uruguayan parent.<sup>6</sup> Uruguayan nationality is transferrable to three generations; since January 2016 a new law<sup>7</sup> grants grandchildren of Uruguayan-born individuals, “natural” nationality when born outside the country.<sup>8</sup>

Uruguayan nationals are allowed to hold or acquire another nationality. The Constitution indicates that Uruguayan nationality cannot ever be lost, whereas Uruguayan citizenship is a “dormant citizenship”: one needs to live in Uruguayan territory and register at the civil registry in order to have active citizenship rights.<sup>9</sup>

There is no naturalization in Uruguay.<sup>10</sup> One cannot acquire Uruguayan nationality, but it is possible to acquire Uruguayan citizenship.

Regarding citizenship, the Constitution of Uruguay differentiates between natural citizens and legal citizens.<sup>11</sup>

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5 Ministerio de Relaciones Exteriores, “Volver a Uruguay - Guía facilitadora para las y los uruguayos que retornan al país.”

6 Poder Legislativo, *Ley N° 16.021 - Nacionalidad Uruguaya*.

7 Poder Legislativo, *Ley N° 19.362 - Reforma a la Ley de Nacionalidad*.

8 Poder Legislativo, *Ley N° 16.021 - Nacionalidad Uruguaya*, Art. 3. Note that the article refers to “ciudadanos naturales,” not to “nacionales.” Though both concepts have different meanings, their requirements overlap.

9 Poder Legislativo, *Constitución de la República*. Sección V, Capítulo V, Art. 81.

10 León, “Nacionalidad y extranjería en el Uruguay, un estudio normo-político,” 443.

11 Poder Legislativo, *Constitución de la República*. Sección III, Capítulo I.

Natural citizens are all Uruguayan nationals, provided they live in Uruguayan territory and register at the civil registry. Their citizenship can be suspended under special conditions (such as treason, disability, or imprisonment<sup>12</sup>).<sup>13</sup> Uruguayan nationals born abroad can be considered naturals if they become “neighbors” (*vecinos*) and register in the civil register. Since December 2011, a law has facilitated fulfillment of the residence condition to enter the civil register by enumerating several possibilities of its interpretation: residence for over three months, rental or purchase of a house in Uruguay, starting a company in Uruguay, undertaking employment in Uruguay, attending any type of education center for over two months, or any other similar act which demonstrates the unequivocal will to be a neighbor.<sup>14</sup>

Legal citizens, on the other hand, are foreigners who accept Uruguayan citizenship under conditions outlined by the Constitution (the main condition is living in Uruguay or performing important duties).<sup>15</sup> Given that they are not awarded Uruguayan nationality, one assumes the former nationality is retained. Legal citizenship can be lost by any form of naturalization and is lost upon residence abroad.<sup>16</sup>

#### LOSS OF CITIZENSHIP/NATIONALITY

Natural Uruguayan citizens cannot ever lose their nationality.<sup>17</sup>

In case of residence abroad (permanent or not), citizenship rights are suspended, but can be recovered once the individual moves back to Uruguay and registers at the civil registry.<sup>18</sup>

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### SUFFRAGE

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#### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Voting is compulsory in Uruguay,<sup>19</sup> and every citizen registered on the civil register is entitled to vote.<sup>20</sup> However, non-residents cannot register abroad.<sup>21</sup> Given that citizenship rights are suspended in case of residence abroad (per-

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12 Ibid. Art. 80.

13 Ibid. Art. 74.

14 Poder Legislativo, *Ley N° 18.858*.

15 Poder Legislativo, *Constitución de la República*, Art. 75.

16 Ibid. Art. 81.

17 Dirección General para Asuntos Consulares y Vinculación, “Procedimiento para la inscripción de hijos de uruguayos nacidos en el exterior.”

18 Poder Legislativo, *Constitución de la República*, Art. 81.

19 Ibid. Capítulo II, Art. 77.

20 Poder Legislativo, *Ley N° 7.812, del 16 de Enero de 1925, Modificada por la Ley N° 17.113, del 9 de Junio de 1990 y por la Ley 17.239, del 2 de Mayo de 2000. Ley de Elecciones*, Art. 1.

21 Stuhldreher, “El sufragio transnacional: una aproximación al caso de Uruguay,” 12.

manent or not), non-residents have no official voting rights. Nevertheless, these rights are regained upon return to Uruguay and inscription in the civil register.<sup>22</sup>

Non-residents who miss one election must justify their absence to the Electoral Court within 30 days of return. Non-residents who have missed more elections are excluded from the electoral register and must apply for reincorporation upon return.<sup>23</sup>

Interestingly, foreigners can be granted the right to vote in Uruguay, provided they fulfill certain conditions: living within the law, having family in Uruguay, owning capital or property in the country, and having been resident for at least 15 years.<sup>24</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The candidacy rights of non-resident citizens are not explicitly regulated. Given that residence in Uruguay is not listed as one of the requisites for candidacy, one can assume that non-residents are also entitled to run for president, provided the other requirements (being a natural citizen, being 35 or older) are met.<sup>25</sup>

The same applies to the House of Representatives and the Senate, though different requirements must be met. In order to become a Member of the House of Representatives, one must be a natural citizen with active rights or have been a legal citizen for five years and, in either case, be at least 25 years old.<sup>26</sup> In order to become a senator, one must be a natural citizen with active rights or have been a legal citizen for seven years and, in either case, be at least 35 years old.<sup>27</sup>

Uruguay is divided 19 departments, each administered by a Departmental Board and a mayor.<sup>28</sup> In order to run for mayor, the same criteria as for senators must be met. Additionally, the candidate must be a native of the department or have lived there for three years prior to assuming office.<sup>29</sup> As for the Departmental Board, one must be at least 18 years old and be a native of the department or have lived there for three years.<sup>30</sup> Accordingly, someone who is a native of one particular department and lives abroad could, in theory, run for mayor or for the regional legislative, though this possibility seems highly unlikely.

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22 Poder Legislativo, *Constitución de la República*, Art. 81.

23 Ministerio de Relaciones Exteriores, "Volver a Uruguay - Guía facilitadora para las y los uruguayos que retornan al país," 15f.

24 Poder Legislativo, *Constitución de la República*, Art. 78.

25 Ibid. Art. 151.

26 Ibid. Art. 90.

27 Ibid. Art. 98.

28 Ibid. Art. 262.

29 Ibid. Art. 267.

30 Ibid. Art. 264.

### **VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS**

Uruguayans must register at the civil registry in order to vote. Non-residents can neither register abroad nor vote, as they lose their citizenship rights when living abroad.<sup>31</sup> E-voting, proxy, and postal vote are not accepted under any circumstance.<sup>32</sup>

### **REGISTRATION FOR FRANCHISE**

Resident Uruguayans need to actively register in order to vote. It is mandatory for Uruguayan citizens to apply for a “civic credential” to be included in the electoral register.<sup>33</sup> While the civic credential can be obtained free of charge, the application needs to be done in person and at electoral courts located in Uruguayan territory.<sup>34</sup>

### **MODE OF REPRESENTATION**

No seats are reserved for external voters. As non-residents lose their citizenship rights; they can neither register nor vote from abroad.<sup>35</sup>

### **EXTERNAL VOTING IMPLEMENTATION**

In spite of multiple attempts, legal provisions for external voting do not exist in Uruguay. In 2005, the governing Broad Front party presented a bill that would implement external voting, but the opposition National Party, Colorado Party, and Independent Party (*Partido Nacional*, *Partido Colorado*, and *Partido Independiente*) voted it.<sup>36</sup> In 2009, Broad Front proposed a plebiscite to decide whether external voting should be implemented or not. Again, the proposal was rejected: only 36.93% of the citizens voted yes.<sup>37</sup>

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## **REGULATION OF POLITICAL COMPETITION**

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### **PARTY OFFICES IN HOST COUNTRIES**

External voting is not envisioned by the Uruguayan government, and Uruguayan parties are not allowed to receive donations or contributions from for-

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31 Stuhldreher, “El sufragio transnacional: una aproximación al caso de Uruguay,” 12; Poder Legislativo, *Constitución de la República*, Art. 81.

32 Poder Legislativo, *Ley N° 7.812 del 16 de Enero de 1925, Modificada por la Ley N° 17.113 del 9 de Junio de 1990, y por la Ley 17.239 del 2 de Mayo de 2000. Ley de Elecciones*, Art. 5.

33 Poder Legislativo, *Constitución de la República*, Art. 77.

34 Ministerio de Relaciones Exteriores, “Servicios al ciudadano: credencial cívica.”

35 Poder Legislativo, *Constitución de la República*, Art. 81.

36 Poder Ejecutivo, *Proyecto de Ley - Voto Uruguayos Residentes Exterior. Ejercicio. Derecho*.

37 Stuhldreher, “El sufragio transnacional: una aproximación al caso de Uruguay,” 14.

eign governments or entities.<sup>38</sup> These two aspects may explain why the law on political parties mentions no external party offices. In any event, Broad Front has an external office in Buenos Aires. For the last national elections (2014), Broad Front subsidized the tickets of 20,000 Uruguayans living in Argentina and wanting to cross the River Plate to vote.<sup>39</sup>

Broad Front also has committees and coordinating offices in three regions: Latin America (Region 1); Canada, Mexico, and the USA (Region 2); and Europe and Australia (Region 3). All three are subordinated to the national party board, as established by the party statute.<sup>40</sup> The party's national plenary is composed of 170 representatives, three of which represent these external committees.<sup>41</sup>

The statutes of the Colorado Party,<sup>42</sup> the National Party,<sup>43</sup> and the Independent Party<sup>44</sup> mention no external committees or offices.

### POLITICAL CAMPAIGNS

External political campaigns are not formally envisioned, given that external voting is not possible and external offices are not regulated. Also, Uruguayan parties are not allowed to receive donations or contributions from foreign governments or entities.<sup>45</sup>

According to a 2010 census, 116,592 Uruguayan-born individuals live in Argentina.<sup>46</sup> This statistic includes many individuals who are not of voting age and excludes Uruguayan voters who were born abroad. Yet it shows how significant external voting could be for a country with an electorate of just 2,620,791.<sup>47</sup> Many of these individuals remain registered in Uruguay and travel back from Argentina with the sole purpose of casting their vote. As a consequence, Uruguayan politicians are starting to recognize the potential of emigrant voting and increasingly view Buenos Aires as a campaign natural stop. For the 2014 presidential elections, for instance, all three main candidates – Tabaré Vázquez (Broad Front), Luis Lacalle Pou (National Party), and Pedro Bordaberry (Colorado Party) – campaigned in Argentina.<sup>48</sup>

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38 Poder Legislativo, *Ley N° 18.485. Partidos Políticos*, Art. 45E.

39 Gil, “Candidatos buscan votos en Argentina.”

40 Frente Amplio, *Frente Amplio - Estatuto 2011*, Art. 46.

41 Ibid. Art. 75.

42 Partido Colorado, *Carta Orgánica del Partido Colorado*.

43 Partido Nacional, *Carta Orgánica del Partido Nacional*.

44 Partido Independiente, *Estatutos del Partido Independiente*.

45 Poder Legislativo, *Ley N° 18.485 - Partidos Políticos*, Art. 45 E.

46 Instituto Nacional de Estadística y Censos, “Migraciones.”

47 Corte Electoral, “Sumatoria Provisoria de los resultados de los escrutinios primarios de las comisiones receptoras de votos.”

48 Infobae, “Tabaré Vázquez cierra mañana su campaña en Buenos Aires”; Gil,

Public funding for external political parties is not regulated, as the legislation makes no reference to external party offices.<sup>49</sup>

### MEMBERSHIP

None of the four biggest parties (Broad Front, Colorado Party, National Party, Independent Party) make any reference to emigrant membership in their respective statutes.

According to the statutes of Broad Front and the Colorado Party, any individual over 14 can become a party member, and all members have candidacy rights within the respective parties. According to the statute of the National Party, only members over 18 are allowed to be candidates; and the statute of the Independent Party establishes that any individual over 16 can become a party member and candidate.<sup>50</sup>

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## INSTITUTIONAL PARTICIPATION

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### CONSULTATIVE BODIES AT NATIONAL LEVEL

There are several local consultative bodies for emigrant representation, as established by the Migration Law. These bodies include Consultative Councils, designed to strengthen links between the country and its emigrants.<sup>51</sup>

There are Councils in multiple cities in Argentina, Brazil, Chile, France, Mexico, Spain, the United States, and many other countries.<sup>52</sup> The consultation of such a body is structural: the General Directorate for Outreach and Consular Affairs, subordinated to the Ministry of Foreign Affairs, is obliged to consult council representatives every 12 to 24 months. So far, these meetings have taken place in 2006, 2007, 2009, 2011,<sup>53</sup> and 2013.<sup>54</sup> The 2013 meeting was even attended by President José Mujica and Minister of Foreign Affairs Luis Almagro.<sup>55</sup> Local or regional ad hoc meetings can also take place whenever the Ministry deems fit.<sup>56</sup>

These consultative bodies are exclusively composed of emigrants, who are appointed by other emigrants without state intervention. A new council can be creat-

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“Candidatos Buscan Votos En Argentina.”

49 Poder Legislativo, *Ley N° 18.485 - Partidos Políticos*, Art. 20 and 39.

50 Frente Amplio, *Frente Amplio - Estatuto 2011*. Chapter 2; Partido Colorado, *Carta Orgánica del Partido Colorado* Art. 5; Partido Nacional, *Carta Orgánica del Partido Nacional* Art. 7; Partido Independiente, *Estatutos del Partido Independiente*, Art. 5 and 7.

51 Poder Legislativo, *Ley N° 18.250 - Migración*, Art. 74.

52 For the full list, see <http://www.d20.org.uy/Lista-de-Consejos>.

53 Departamento 20, “Encuentros Mundiales.”

54 Embajada de Uruguay en Colombia, “V encuentro mundial de Uruguayos residentes en el exterior.”

55 Ibid.

56 Ministerio de Relaciones Exteriores, *CE N° 172.975*, Art. 15.

ed in any district where at least 20 Uruguayan citizens have established permanent residence. Each council must meet at least once a month and comprise a minimum of five elected emigrant representatives.<sup>57</sup> The relationship between the councils and the Foreign Service is strictly limited to consultation with the purpose of developing links with the expatriate community.<sup>58</sup> While the councils are chaired by emigrants, the *Encuentros Mundiales de Consejos Consultivos* are chaired by the Ministry of Foreign Affairs, particularly the General Directorate for Outreach and Consular Affairs, which determines when this meeting will take place.<sup>59</sup>

The councils are local, and the participation of every citizen is restricted to his/her jurisdiction of residence.<sup>60</sup> Additionally, the councils should strive towards a complete renovation of members to achieve maximum participation.<sup>61</sup> Other than that, there are no selection criteria. However, not all consular jurisdictions have corresponding councils, meaning the mere creation of a council is already a criterion of self-selection.

The right to make their own reports or recommendations, even when not consulted, is neither envisioned by the Migration Law<sup>62</sup> nor by the decree regulating the existence of the Councils.<sup>63</sup> These consultative bodies have no right to a response from national authorities, either. They are presented as support for the diplomatic missions; despite being entitled to self-regulation, they have no power to set an agenda.<sup>64</sup>

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## ADMINISTRATION

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### CONSULATES

As of January 2015, Uruguay's consular network comprises 30 general consulates, and 42 consular sections attached to embassies.<sup>65</sup>

The Office for Citizens Assistance offers judicial consultancy to Uruguayan citizens arrested abroad and helps in other specific matters. The office also pays for medications, prostheses and additional medical supplies, but the focus lies on resident Uruguayan citizens who need supplies from abroad, rather than on Uruguayan emigrants.<sup>66</sup>

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<sup>57</sup> Ibid. Art. 3 and 5.

<sup>58</sup> Ibid. Art. 13.

<sup>59</sup> Ibid. Art. 14.

<sup>60</sup> Ibid. Art. 2 g.

<sup>61</sup> Ibid. Art. 4.

<sup>62</sup> Poder Legislativo, *Ley N° 18.250 - Migración*.

<sup>63</sup> Ministerio de Relaciones Exteriores, *CE N° 172.975*.

<sup>64</sup> Ibid. Art. 10.

<sup>65</sup> E-Mail communication with Directorate of Consular Affairs (Ministry of Foreign Affairs, Montevideo), February 24, 2016.

<sup>66</sup> Ministerio de Relaciones Exteriores, "Oficina de Asistencia al Compatriota y Ser-

### HOME COUNTRY ADMINISTRATION

Uruguay has two bodies in its administrative structure that deal with emigration: one that handles both immigration and emigration policy (the *Junta Nacional de Migración*), and another that deals exclusively with emigration with a mandate to design and implement policy (the General Directorate for Outreach and Consular Affairs). The latter is located at the third rank of public administration and within the Ministry of Foreign Affairs.<sup>67</sup> It is nicknamed *Departamento 20*, a reference to the 19 territorial divisions of Uruguay and a name used generally to refer to the diaspora.<sup>68</sup>

The General Directorate for Outreach and Consular Affairs: is, in turn, divided into eight departments.<sup>69</sup>

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### ECONOMIC POLICIES

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#### REMITTANCES

When compared to other Latin American nations, remittances from Uruguayan emigrants total very little. This is for two possible reasons: According to the IOM Migration Profile of Uruguay, Uruguayan emigrants do not usually come from poorer classes, meaning the relatives left behind do not necessarily depend on remittances and Uruguayan emigration generally involves entire families.<sup>70</sup>

In cooperation with the Ministry of Foreign Affairs, the state-owned *Banco de la República Oriental del Uruguay* (BROU) offers the *Cuenta a Distancia*, a bank account for Uruguayans living in Spain or the US. The emigrant can open an account from abroad, appoint a co-holder in Uruguay and send remittances through this account.<sup>71</sup>

#### INVESTMENT

The Ministry of Foreign Affairs and the Ministry of Housing, Spatial Planning, and the Environment<sup>72</sup> offer multiple incentives for Uruguayans inter-

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vicios a la Comunidad”.

67 Ministerio de Relaciones Exteriores, “Estructura”.

68 Ministerio de Relaciones Exteriores, “Dirección General para Asuntos Consulares y Vinculación.”

69 Ibid.

70 International Organization for Migration, *Perfil migratorio de Uruguay*, 82.

71 Banco de la República Oriental del Uruguay, “Cuenta a Distancia”; Banco de la República Oriental del Uruguay, “Cuenta a distancia. Descripción del producto y operativa”.

72 Ministerio de Vivienda, Ordenamiento Territorial y Medio Ambiente, “Garantía para uruguayos que retornan del exterior”; María Eugenia Martínez, “Oferta: Casa en



ested in buying or renting real estate in their home country, in the form of the *Garantía para uruguayos que retornan del exterior* program. As the name implies, though, those incentives are specifically associated with emigrant return.

### BRAIN-CIRCULATION NETWORKS AND BRAIN-GAIN PROGRAMS

Two relevant brain-circulation networks exist in Uruguay. The platform *RedEncuentro*, established by *Fundación Polo Mercosur* with support from *Gabinete Productivo del Uruguay*, organizes conferences and other meetings to foster knowledge transfer for the benefit of Uruguay.<sup>73</sup> *RedEncuentro* is also supported by *CIDESAL*, a project coordinated by the *IRD*, France's public development research institute.

The *Programa de circulación de uruguayos altamente calificados (CUAC)* program, coordinated by the Ministry of Foreign Affairs, connects highly qualified Uruguayans living abroad with institutions in their home country. The program targets academics, entrepreneurs, artists, athletes, and community leaders in particular.<sup>74</sup>

In addition to *RedEncuentro* and *CUAC*, the Uruguayan Academic Network, focuses on improving Internet access and strengthening information exchange amongst researchers and was established by the *Universidad de la República* (henceforth *Udelar*), Uruguay's only public university. Though not a brain-gain policy per se, the main goal of this project is to connect *Udelar* researchers with their international peers, strengthening the presence and relevance of Uruguayan academia.<sup>75</sup>

### RETURN POLICIES

Uruguay's small size, both in terms of population and area,<sup>76</sup> enables the Ministry of Foreign Affairs to publish regular statistics on Uruguayan returnees. The most recent report appeared in November 2014, and while it does not speak for the entirety of returnees (only for those who contact the Office of Return and Welcome upon their return), it offers an interesting profile of emigrants, most of which are male, married and aged between 31 and 40, and 44% of which are returning from Spain.<sup>77</sup>

In terms of recognition of academic or professional qualifications obtained abroad, the process differs according to the level of education. The

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Uruguay, bienvenida y facilidades”.

73 *RedEncuentro*, “Quienes Somos”.

74 Ministerio de Relaciones Exteriores, “CUAC - Programa de Circulación de Uruguayos Altamente Calificados”.

75 Universidad de la República, “Red Académica Uruguay”.

76 Central Intelligence Agency (CIA), “The World Factbook: Uruguay”.

77 Ministerio de Relaciones Exteriores, “Informe cuatrimestral sobre retornos y repatriaciones. Mayo-Agosto de 2014,” 9ff.

agency in charge of recognition of secondary education is the Council for Secondary Education, Section for Revalidation and Technical Inspection. Besides presenting the relevant documents to this institution, the returnee who has earned his/her secondary qualifications abroad must complete an online course on Uruguayan integration, including classes on national history, national geography, and civic education.<sup>78</sup> Once all conditions are fulfilled, the Council for Secondary Education needs up to 10 business days to emit a document that can be presented to schools or universities.<sup>79</sup>

Along with Bolivia, Chile, and fellow MERCOSUR countries, Uruguay signed the *Protocolo de integración educativa y revalida de diplomas, certificados, títulos y reconocimiento de estudios de nivel medio técnico* to facilitate the recognition of primary and secondary education attained in the respective signatory countries.<sup>80</sup>

As for tertiary education, since October 2012, Uruguay adheres to the Apostille Convention. This means that any academic or professional qualification obtained in one of the signatory parties is automatically recognized in Uruguay.<sup>81</sup> Additionally, for research and teaching purposes, Uruguayan universities automatically recognize undergraduate and graduate degrees obtained in universities from other Mercosur members.<sup>82</sup>

In case of countries that have neither signed the Apostille Convention nor are part of Mercosur, the agency in charge of degree certification is the Udelar.<sup>83</sup> First, the returnee must submit a translated copy of his/her degree to the Uruguayan consulate in the country where the degree was earned.<sup>84</sup> Once the veracity of such degree is attested by the consul, it must be presented to the appropriate department at the Udelar, which in turn will evaluate whether the qualifications are recognized or not.<sup>85</sup> There is no maximum period of time in which the applications must be processed.

Uruguay runs two campaigns related to emigrant return. As part of the Ministry of Foreign Affairs, the Office of Return and Welcome was created

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78 Ministerio de Relaciones Exteriores, “Volver a Uruguay - Guía facilitadora para las y los uruguayos que retornan al país,” 16.

79 Ibid. 17.

80 Mercosur, *Protocolo de integración educativa y revalida de diplomas, certificados, títulos y reconocimiento de estudios de nivel medio técnico*.

81 The full list of signatory parties is available at [http://www.hcch.net/index\\_es.php?act=conventions.authorities&cid=41](http://www.hcch.net/index_es.php?act=conventions.authorities&cid=41).

82 Mercosur, *Protocolo de integración educativo para proseguimiento de estudios de post grado en las universidades de los Estados partes del MERCOSUR*; Mercosur, *Acuerdo de admisión de títulos y grados universitarios para el ejercicio de Actividades académicas en los Estados partes del MERCOSUR*.

83 Universidad de la República, “Apostilla o Legalización de Estudios y/o Títulos.”

84 Universidad de la República, *Ordenanza sobre revalidación y reconocimiento de títulos, grados académicos y certificados de estudio extranjeros*, Art. 11.

85 Ibid. Art. 16 and 17.

in 2008 with the goals of creating improved conditions and incentives for the return of Uruguayans abroad and facilitating their reintegration.<sup>86</sup> Besides aiding Uruguayans emigrants interested in returning, the office also publishes statistics and analyses.

Also run by the Ministry of Foreign Affairs, the *Repatriación de Uruguayos que se encuentran en el exterior* campaign does not aim to actively convince emigrants to return; rather, it covers the returning costs for emigrants already interested in going back. According to law, repatriation is a benefit offered by the state, through the Ministry of Foreign Affairs, to any Uruguayan national or legal citizen who, for justifiable reasons of illness; vulnerable social situation; gender-based violence, including victims of human trafficking and domestic violence; or other serious motives that prevent the individual from returning on their own from any state or foreign territory where he/she resides temporarily or permanently.<sup>87</sup> One could draw parallels to the National Commission for Repatriation, created by the Amnesty Law<sup>88</sup> and active between 1985 and 1989. This commission was responsible for the return of numerous Uruguayans who left for exile during the dictatorship.

Additionally, there are two official programs designed to facilitate the reintegration of returnees in Uruguay. As part of the Ministry of Labor and Social Security, the Unidad de Coordinación para Retornados implements measures to facilitate the reinsertion of Uruguayan emigrants into the country's labor market, including skill-acquisition programs and work placement.<sup>89</sup> Meanwhile, the brochure *Volver a Uruguay - Guía facilitadora para las y los uruguayos que retornan al país*, published by the Office of Return and Welcome, collects information on health, education, taxation, labor market reinsertion and other topics of relevance for returning emigrants.<sup>90</sup> The Ministry of Foreign Affairs has also signed a partnership with the psychology department of the Udelar to offer psychological support for returnees who have experienced traumatic situations as a consequence of being arrested or deported. Another partnership with the State Healthcare Administration provides one year of free healthcare for returnees. Finally, the Banco de Seguros del Estado offers a special tariff that grants returning emigrants 15% discount when buying a car or 20% discount when buying a house.<sup>91</sup>

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86 Ministerio de Relaciones Exteriores, *Decreto N° 357/008. Créase la Oficina de Retorno y Bienvenida*, Art. 2.

87 Poder Legislativo, *Ley N° 18.996 - Rendición de Cuentas y Balance de Ejecución Presupuestal*, Art. 120.

88 Poder Legislativo, *Ley N° 15.737. Se aprueba la Ley de Amnistía*.

89 Ministerio de Trabajo y Seguridad Social, "Descripción de unidades organizativas."

90 Ministerio de Relaciones Exteriores, "Volver a Uruguay - Guía facilitadora para las y los uruguayos que retornan al país."

91 Dirección General para Asuntos Consulares y Vinculación, *Librillo de Gestión Insti-*

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## OBLIGATIONS

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### MILITARY SERVICE, SOCIAL SERVICE, TAXES

Military service in Uruguay is voluntary, meaning neither residents nor emigrants is obliged to serve.<sup>92</sup> No mention of an alternative social service was found in Uruguayan legislation, nor do laws make any reference to taxes paid by emigrants. In any case, the country has signed multiple international conventions to avoid double taxation;<sup>93</sup> and nationals living abroad for over two years are allowed to return with their possessions (furniture, machines, vehicles, etc.) without paying extra taxes.<sup>94</sup>

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## CULTURAL POLICIES

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The multiple *Casas Uruguayas* or *Clubs Uruguayos* are sponsored by civil society: No cultural center abroad is managed by the Uruguayan government.<sup>95</sup> Nevertheless, since 2013, the General Directorate for Outreach and Consular Affairs is entitled to resources from the Cultural Fund. According to a government brochure,<sup>96</sup> these resources are used to support multiple cultural activities abroad, though no activity in particular is mentioned.

Though Uruguay implements multiple cultural and communication programs, none of them targets emigrants directly, but rather the population in Uruguay. The television channel Uruguay Natural TV, administered by the Ministry of Tourism and Sport, promotes Uruguayan culture (including museums, beaches, sport, hotels, tourism and food).<sup>97</sup> The radio program *Departamento 20* presents the multiple facets of Uruguayan emigration.<sup>98</sup> Its broadcaster, Radio Uruguay, is run by the Ministry of Education and Culture. Additionally, the public cable channel TV Ciudad – Montevideo (run by the government of Montevideo) broadcasts the program *Ir y volver*, which portrays Uruguayan migrants and addresses migration on a global level.<sup>99</sup>

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*tucional 2010-2014*, 42.

92 Poder Legislativo, *Ley N° 18.650 - Ley Marco de Defensa Nacional*, Art. 29.

93 For the full list, see <http://www.dgi.gub.uy/wdgi/page?2,principal,ConveniosInternacionales,Oes,0>.

94 Poder Legislativo, *Ley N° 18.250 - Migración*, Art. 76.

95 For the full list, see <http://www.mrree.gub.uy/frontend/page?1,dgacv,DGACVA-sociacionesdeUruguayos,Oes,0>.

96 Dirección General para Asuntos Consulares y Vinculación, *Librillo de Gestión Institucional 2010-2014*, 15.

97 Ministerio de Turismo y Deporte, “Uruguay Natural TV.”

98 Radio Uruguay, “Departamento 20: Quiénes Somos.”

99 International Organization for Migration, *Perfil Migratorio de Uruguay*, 123; *tevéCiu-*

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## EXIT AND TRANSIT POLICIES

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Uruguay does not actively discourage emigration. Nevertheless, the Ministry of Foreign Affairs focuses on the promotion of return policies, at least judging by the amount of information made available by the Office of Return and Welcome. It is, therefore, a matter of creating adequate conditions and waiting for emigrants to return willingly. The strategy seems to be working, as the number of returnees has been growing steadily since the mid-2000s.<sup>100</sup>

The Office of Citizens' Aid offers little information to emigrants, who are informed of their rights and duties by NGOs and civil societies, rather than by official sources. Indeed, the Uruguayan case displays an intense civil society participation – in the form of the *Red de Apoyo al Migrante*, for example, which was created in 2010 and comprises organizations such as *Observatorio de políticas públicas de derechos humanos en el mercosur* and *Asociación de padres con hijos en el exterior or asociación de paraguayos en uruguay*.<sup>101</sup>

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## SOCIAL POLICIES

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Though there is no specific program for emigrants, employment benefits can be entirely maintained in countries with which Uruguay has signed agreements. The following multilateral agreements have been signed thus far:

- *Convenio Multilateral Iberoamericano de Seguridad Social* (as of 2014, also signed by Bolivia, Brazil, Chile, Ecuador, El Salvador, Paraguay, and Spain): if Uruguayans emigrate for over 12 months, they are subjected to the laws valid in the country of residence, where they have access to the same health and retirement benefits as nationals. Payments in different member countries add up.
- *Acuerdo Multilateral de Seguridad Social del Mercado Común del Sur (MERCOSUR)* (also signed by Argentina, Brazil, and Paraguay): benefits paid in different member countries add up, though payments made in one country for under 12 months may not be considered.

Additionally, Uruguay signed bilateral social security agreements with Austria, Canada (including Quebec), France, Greece, Israel, Italy, Luxemburg, the Netherlands, Peru, Portugal, and Venezuela. All agreements allow for the accumulation of benefits earned in different countries. The government of

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dad, “Ir y volver.”

100 International Organization for Migration, *Perfil Migratorio de Uruguay*, 74.

101 Ibid. 121.

Uruguay is also in talks with Colombia, Costa Rica, Germany, and Switzerland to sign further agreements.<sup>102</sup>

In regard to retirement benefits, Uruguay claims to be the Latin American country with the highest number of retirement agreements, having signed partnerships with Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, Greece, Israel, Italy, Paraguay, Peru, Portugal, Spain, Switzerland, USA, and Venezuela. In these countries, retirement benefits are paid in their entirety, without deductions.<sup>103</sup>

There is no specific healthcare program for Uruguayan emigrants.

The Ministry of Foreign Affairs maintains children's libraries in ten selected consulates around the world, as part of the *Maletas culturales* program. These consulates also offer informal education programs for Uruguayan children born abroad. Additionally, consulates have partnered with the Board of Secondary Education to conduct final exams in their vicinities and grant Uruguayan degrees to emigrants interested in finishing their secondary education.<sup>104</sup>

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#### SYMBOLIC POLICIES

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The *Departamento 20* (a reference to the 19 territorial divisions of Uruguay), subordinated to the General Directorate for Outreach and Consular Affairs, is neither a politico-electoral circumscription nor an official province abroad, yet it plays a central role in coordinating emigrant policies. In addition to the creation of a website for Uruguayans living abroad,<sup>105</sup> *Departamento 20* supports expatriates in need and administers advisory councils in multiple cities in Argentina, Brazil, Chile, France, Mexico, Spain, the United States, and many other countries.

Uruguay's government-owned telecommunications company, Antel, also offers a service named *Departamento 20* for nationals living in Argentina, Australia, Brazil, Canada, Italy, Mexico, Spain, the United States, or Venezuela. In order to facilitate communication between emigrants and their family, emigrants can pay a fee to keep their Uruguayan phone number and receive calls as if they were in Uruguay.<sup>106</sup>

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102 Instituto de Seguridad Social, "Convenios Internacionales."

103 Ministerio de Relaciones Exteriores, "Servicios al ciudadano: jubilarse en el exterior."

104 Dirección General para Asuntos Consulares y Vinculación, *Librillo de Gestión Institucional 2010-2014*, 37, 38.

105 For more information, see <http://uruguayosenelexterior.gub.uy>.

106 Antel, "Antel Departamento 20".

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## VENEZUELA

Venezuelan emigration is quite a new phenomenon, but highly interesting and increasingly relevant.

In the last decade, the migratory profile of Venezuela has changed: no longer is it a receiver of immigrants, but rather a country of emigration.<sup>1</sup> The causes are mainly political and socioeconomic (scarcity and insecurity).<sup>2</sup> The year 2002 represents a milestone in Venezuelan migration as the oil strike, together with the political crisis, resulted in an increase in emigration.<sup>3</sup>

Although no official statistics exist, non-official ones (primarily academic) and data collection of other countries, such as the USA and Canada, show that emigration figures – albeit inferior in absolute terms to those of other Latin American countries – are very significant in relation to the national population. In recent years, the number of Venezuelans declaring themselves willing to emigrate also increased.<sup>4</sup>

The countries with the highest number of Venezuelan emigrants are the USA and Spain. Within the USA, Florida, due to its geographical position,<sup>5</sup> and Texas,<sup>6</sup> for the oil industry, attract the most immigrants.

Venezuelan emigration is also characterized by another factor: its strong politicization, resulting from the ideological polarization prompted by *Chavismo*. Venezuelans' political organization and mobilization abroad is a further way of maintaining connections with their country of origin.

Although Venezuela has made advances in terms of political inclusion of emigrants (through, for instance, the recognition of dual nationality and external electoral rights), the landscape of Venezuelan emigrant policies is still characterized by the absence of the majority of policy dimensions analyzed in this book (e.g. economic, cultural, symbolic or external obligations). However, the current legal and institutional vacuum on emigrant policies is filled to some extent by emigrant mobilization.

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1 Subero, Carlos, *La alegría triste de emigrar*, Freitez, “La emigración desde Venezuela durante la última década”; Morales Díaz, Escarlyn and Navarro Pérez, Silvana, “Venezuela: de receptor de inmigrantes a emisor de emigrantes”; CNN, “Inmigración venezolana en EE.UU.”; ADN TV, “Venezolanos emigran aceleradamente.”

2 Subero, Carlos, *La alegría triste de emigrar*.

3 Office of Immigration Statistics, U.S. Department of Homeland Security, “2011 Yearbook of Immigration Statistics.”

4 Subero, Carlos, *La alegría triste de emigrar*.

5 NTN24, “Ciudad del Doral, Miami, espera una nueva ola de inmigrantes venezolanos.”

6 Subero, Carlos, *La alegría triste de emigrar*.

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## CITIZENSHIP/NATIONALITY

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### DUAL OR MULTIPLE NATIONALITY REGULATION

Venezuelans have no legal obstacles for holding or acquiring another citizenship/nationality.<sup>7</sup> The Constitution stipulates no applicability limits of dual/multiple nationality, leading to the assumption that there is no limit. However, Venezuela considers in-country residence as a requirement for nationality in the case of children born abroad to naturalized parents.<sup>8</sup>

Citizenship is reserved for Venezuelans by birth. Naturalized Venezuelans who entered the country before the age of seven and lived there until the age of 18 can also exercise political rights.<sup>9</sup>

### LOSS OF CITIZENSHIP/NATIONALITY

Nationality cannot be lost due to residence abroad or due to the acquisition of another nationality.<sup>10</sup>

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## SUFFRAGE

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### VOTING RIGHTS OF NON-RESIDENT CITIZENS

External voting is permitted for presidential elections, elections to both the Latin American and the Indigenous Parliament, as well as for national referenda, but not for the National Assembly.<sup>11</sup> The electoral regulations however, restrict the participation of non-resident Venezuelans based on their administrative status in their state of reception. Only those with documents are eligible to participate in home elections.<sup>12</sup>

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

The legislation does not make any explicit reference to the candidacy rights of non-resident citizens. However, the Venezuelan Constitution does contain some general restrictions to candidacy rights, some of them based on residency or nationality status: For presidential elections, only Venezuelans by

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7 Asamblea Nacional Constituyente, *Constitución de la República Bolivariana de Venezuela*, Art. 34

8 Ibid. Art. 32.3 and Art. 32.4.

9 Ibid. Asamblea Nacional de la República Bolivariana de Venezuela, *Ley de Nacionalidad y Ciudadanía*.

10 Ibid. Art. 34, 35.

11 Asamblea Nacional de la República Bolivariana de Venezuela, *Ley Orgánica de Procesos Electorales*.

12 Ibid. Art. 124

birth with no dual/multiple nationality enjoy candidacy rights.<sup>13</sup> For national elections, candidates must prove four years of residence in the corresponding entity before the date of election.<sup>14</sup> The same applies for regional legislative elections.<sup>15</sup> Residence is also a fundamental restriction for municipal legislative elections.<sup>16</sup>

#### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

Non-resident citizens can exercise their external voting rights only in embassies and consulates.<sup>17</sup>

#### REGISTRATION FOR THE FRANCHISE

Registration is automatic for resident citizens.<sup>18</sup> For non-resident citizens, on the other hand, registration is active the first time, and then automatic.<sup>19</sup> Venezuelans must present their identity card to register.<sup>20</sup>

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### REGULATION OF POLITICAL COMPETITION

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#### PARTY OFFICES IN HOST COUNTRIES

External political party offices are *de facto* rather than *de jure* allowed. Indeed, Venezuelan parties have permanent, official representations (though not exactly offices) in many countries.<sup>21</sup> *Voluntad Popular* has permanent official rep-

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13 Asamblea Nacional Constituyente, *Constitución de la República Bolivariana de Venezuela*, Art. 40

14 Asamblea Nacional de la República Bolivariana de Venezuela, *Ley Orgánica de Procesos Electorales*, Art. 188

15 Asamblea Nacional Constituyente, *Constitución de la República Bolivariana de Venezuela*, Art. 162

16 Ibid.; Consejo Nacional Electoral, *Ley Orgánica de Régimen Municipal*; Consejo Nacional Electoral de la República Bolivariana de Venezuela, *Reglamento No.1 de la Ley Orgánica de Procesos Electorales*, 1, Arts. 27-31

17 Ministerio del Poder Popular para Relaciones Exteriores, “Trámites Consulares - Preguntas Frecuentes / Frequently Asked Questions - Venezuela.”

18 El Congreso de la República de Venezuela, *Ley Orgánica de Sufragio y Participación Política*.

19 Consejo Nacional Electoral de la República Bolivariana de Venezuela, Reglamento No. 4 de la Ley Orgánica de Procesos Electorales; Ministerio del Poder Popular para Relaciones Exteriores, “Trámites Consulares - Preguntas Frecuentes / Frequently Asked Questions - Venezuela”; VotoDondeSea, “Preguntas Frecuentes.”

20 Consejo Nacional Electoral de la República Bolivariana de Venezuela, *Reglamento No.1 de la Ley Orgánica de Procesos Electorales*, Art. 1

21 Alberto Pérez Levy, (international spokesman for *Voluntad Popular*) in discussion with the author in Madrid, March 16, 2015.

representations in: Argentina, Canada, Chile, Costa Rica, France, Mexico, Panama, Spain, Switzerland, the UK, and the USA. *Mesa de Unidad Democrática* has expanded its network of party offices to Austria, Germany, France, Portugal, Spain, Switzerland and the UK.<sup>22</sup>

### **POLITICAL CAMPAIGNS**

There is no regulation pertaining to campaigns abroad.

### **MEMBERSHIP**

Emigrant membership in political parties is, in general terms, equal to the membership of resident citizens.<sup>23</sup> However, it is interesting to note that the regulation of political parties restricts membership in regional political parties to residents of the given region.<sup>24</sup>

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### **ADMINISTRATION**

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#### **CONSULATES**

Venezuela has a consulate network of 53 consulates in 20 countries. Consulates provide expert legal/judicial consultancy, as well as a sort of social assistance similar to psychological consultancy, targeting the indigent and victims of violence. No financial consultancy is offered.<sup>25</sup>

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### **OBLIGATIONS**

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#### **MILITARY SERVICE, SOCIAL SERVICE, TAXES**

Venezuela has no obligatory military service, nor social service.<sup>26</sup>

No specific taxes for emigrants were found. However, Venezuelans living abroad must also pay the income tax in Venezuela, unless they stay out of the country more than 183 days and provide official proof of residence from the tax authority in their country of residence.<sup>27</sup>

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22 Luís Eduardo Manresa (international spokesman for Mesa Unión Democrática), telephone interview, March 3, 2015.

23 Asamblea Nacional de la República Bolivariana de Venezuela, *Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones*, Art. 3

24 Ibid. Art. 10, paragraph 1

25 Alberto Pérez Levy, (international spokesman for *Voluntad Popular*) interview, March 16, 2015.

26 Asamblea Nacional Constituyente, *Constitución de la República Bolivariana de Venezuela*; Asamblea Nacional de la República Bolivariana de Venezuela, *Ley de Conscripción y Alistamiento Militar*.

27 "SCL-Consultores."

Furthermore, is worth noting that formal documentation (such as a power of attorney or the issuance of a passport) is significantly more expensive (sometimes up to 100 times) for emigrants than resident citizens.<sup>28</sup>

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## SOCIAL POLICIES

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The national regulation on social protection (that includes retirement, maternity leave, healthcare among others benefits) explicitly applies only to in-country residents.<sup>29</sup>

However, Venezuela has signed several bilateral agreements on social security with Chile, Portugal, Spain, and Uruguay.

In addition, Venezuela has also signed the Multilateral Ibero-American Convention on Social Security, yet not ratified it.

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<sup>28</sup> According to the above-mentioned party spokesmen.

<sup>29</sup> Hugo Chávez Frías, Presidente de la República, *Decreto con rango, valor y fuerza de Ley de Reforma Parcial de la Ley del Seguro Social*, Art. 2.



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# EMIGRANT POLICIES

## DATA COLLECTION TOOL

### CITIZENSHIP/NATIONALITY

#### DUAL OR MULTIPLE NATIONALITY REGULATION

**No legal obstacles for holding or acquiring another citizenship/nationality alongside that of the country of origin.**

Please, collect information about the acceptance of dual citizenship/nationality. Is there a standard procedure?

**Are there any specific conditions or restrictions for the exercise of citizen rights (mainly politico-electoral rights) if individuals have dual or multiple nationality?**

Some examples of what you might be looking for: a) dormant citizenship (as long as the person lives permanently in the state of origin (SO), his/her status and citizens' rights in the state of reception (SR) are "inactive", and they are only "reactivated" when he/she moves back to and lives in the SO); b) in some rare cases in the world, dual citizens are obliged to report that they hold dual nationality or else they incur in an administrative penalty; c) dual nationals might be barred from the exercise of certain high public office positions (presidency, ministries, foreign service, etc.).

**Dual citizenship/nationality applicable to/eligible for:**

- Only first generation
- First and second generation
- More generations (how many? At which generation does it stop?)
- No limit

**Dual citizenship only tolerable if citizen naturalizes in certain countries with which SO has treaties. Specify which.**

If you can find official and reliable information on the number of citizens of this country who hold dual/multiple citizenship/nationality, add it here.

#### LOSS OF CITIZENSHIP/NATIONALITY

**Loss of citizenship/nationality if permanent residence abroad:**

**Loss of citizenship/nationality if acquisition of foreign citizenship/nationality** (please check for exceptions, if there are binational or multinational treaties for the toleration of double/multiple nationality with some countries only).

## DIFFERENT RIGHTS FOR EXTERNAL CITIZENS

Did you find any other differences in the rights and duties of citizenship that individuals who are located temporarily or permanently outside the SO territory do not enjoy by virtue of their absence vis-à-vis national residents (i.e. difference because of absence, not because of holding a different nationality) and that did not fit in previous questions?

## SUFFRAGE

### VOTING RIGHTS OF NON-RESIDENT CITIZENS

Here the several categories differentiate levels where the suffrage may be exercised and types of it. Be careful when filling each.

ELECTION	VOTING RIGHTS OF NON-RESIDENTS
National Presidential	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised -subject to standard conditions (i.e. voting age).</li> <li>2. Voting rights only for selected categories of non-resident (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external voting rights.</li> <li>5. No elections.</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>
National Legislative	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised (subject to standard conditions).</li> <li>2. Voting rights for selected categories of non-resident only (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external enfranchisement</li> <li>5. No elections</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>

ELECTION	VOTING RIGHTS OF NON-RESIDENTS
National Referendum	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised (subject to standard conditions).</li> <li>2. Voting rights for selected categories of non-resident only (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external voting rights</li> <li>5. No elections</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>
Regional executive	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised (subject to standard conditions).</li> <li>2. Voting rights for selected categories of non-resident only (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external voting rights</li> <li>5. No elections</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>
Regional Legislative	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised (subject to standard conditions).</li> <li>2. Voting rights for selected categories of non-resident only (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external voting rights</li> <li>5. No elections</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>
Regional Referendum	<ol style="list-style-type: none"> <li>1. All non-resident citizens enfranchised (subject to standard conditions).</li> <li>2. Voting rights for selected categories of non-resident only (<i>specify categories in remarks</i>).</li> <li>3. In-country voting only, no access to a ballot outside country.</li> <li>4. No external voting rights</li> <li>5. No elections</li> </ol> <p>Are there some specific restrictions? Is voting compulsory? <i>Remarks:</i> <i>References:</i></p>

### Special Remarks in cases of eligibility for local legislative elections

This residual question is only relevant for federal/highly decentralized states. Are there external voting rights in even lower levels of government (executive and legislative)?

If yes, explain coverage of the franchise, the conditions for voting and, if there are variations between local units, give some examples of these.

### CANDIDACY RIGHTS OF NON-RESIDENT CITIZENS

ELECTION	VOTING RIGHTS OF NON-RESIDENTS
National Presidential	<ol style="list-style-type: none"> <li>1. Candidacy right for non-resident citizens (subject to universally-applied restrictions).</li> <li>2. Candidacy right for selected non-resident citizens only (<i>specify in remarks</i>).</li> <li>3. No right to candidacy for non-resident citizens.</li> <li>4. No elections</li> </ol> <p>Remarks: References:</p>
National Legislative	<ol style="list-style-type: none"> <li>1. Candidacy right for non-resident citizens (subject to universally-applied restrictions).</li> <li>2. Candidacy right for selected non-resident citizens only (<i>specify in remarks</i>).</li> <li>3. No right to candidacy for non-resident citizens.</li> <li>4. No elections</li> </ol> <p>Remarks: References:</p>
Regional executive	<ol style="list-style-type: none"> <li>1. Candidacy right for non-resident citizens (subject to universally-applied restrictions).</li> <li>2. Candidacy right for selected non-resident citizens only (<i>specify in remarks</i>).</li> <li>3. No right to candidacy for non-resident citizens.</li> <li>4. No elections</li> </ol> <p>Remarks: References:</p>
Regional Legislative	<ol style="list-style-type: none"> <li>1. Candidacy right for non-resident citizens (subject to universally-applied restrictions).</li> <li>2. Candidacy right for selected non-resident citizens only (<i>specify in remarks</i>).</li> <li>3. No right to candidacy for non-resident citizens.</li> <li>4. No elections</li> </ol> <p>Remarks: References:</p>

### Special Remarks in cases of eligibility for local legislative elections

This residual question is only relevant for federal/highly decentralized states. Are there external passive voting rights in even lower levels of government (executive and legislative such as “alcalde, presidente municipal, ayuntamiento, congreso local”)?

If yes, explain coverage of the franchise, the conditions for voting and, if there are variations between local units, give some examples of these.

### VOTING METHODS AVAILABLE TO NON-RESIDENT CITIZENS

METHOD	AVAILABLE ( YES/NO) <u>Underline the answer, please.</u>
In-country	
Embassy/Consulate	
Proxy	
Postal	
E-Voting	

### REGISTRATION FOR THE FRANCHISE

Try to be very specific in answering this question. We are interested in the method of registration for resident and non-resident citizens, as well as in differences made between both groups.

The two main methods are:

- **AUTOMATIC.** The person is included automatically in the electoral register.
  - It is possible that the registration is automatic in case of in-country voting, but otherwise active registration is required.
  - It is also possible that registration is automatic if the person is registered in the consulate, but still that s/he has to apply for voting in each election.
- **ACTIVE.** The person must actively register to vote in the elections.
  - It is possible that, once actively registered, the person is automatically registered for subsequent elections.

These are only a few examples of the possible registration methods that can be applied. You may find that none of the examples provided fits exactly what you found out. The example here serves to give you an idea of the degree of specificity that we require in your description. Please, report the method that applies in the country you are researching, with all specificities.

## Registration method for resident citizens in the home country:

## Registration method for non-resident citizens:

### MODE OF REPRESENTATION

There are different ways to count and incorporate external voters' ballots into the election results. To find these you will need to research in detail the electoral laws and the specific laws that regulate voting abroad as to find out how votes are counted once they arrive in the SO. If you have doubts, consult colleagues before filling this. Arrighi et al. (2013) have identified six possible combinations (p.33)<sup>1</sup>:

	GENERAL BIOGRAPHICAL	GENERAL OTHER	SPECIAL SUBDIVIDED	SPECIAL NO DIVISION
<b>SEPARATE COUNTING</b>	Non-resident votes are counted separately from in-country votes and combined with those within the country into a local voting district with which the voter has a biographical connection (resided in the past, was born in, etc.). This is generally clear because they will be counted in a special booth and reported separately.	Non-resident votes are counted separately from in-country votes and combined with those within the country into a local voting by a method different than biographical connection.	Non-resident votes are counted separately from in-country votes and there are reserved seats for selected destination countries/areas or regions containing those countries (e.g. US, Europe, etc.). This will generally only apply for legislative elections, where some seats can be reserved for emigrant voters.	Non-resident votes are counted separately from in-country votes and there are reserved seats for a general foreign constituency that contains all countries/regions where emigrants may reside. Again, this will apply (if at all) for legislative elections, where seats can be reserved for emigrant voters.

1 Arrighi, Jean-Thomas, Rainer Bauböck, Michael Collyer, Derek Hutcheson, Madalina Moraru, Lamin Khadar, and Jo Shaw. "Franchise and Electoral Participation of Third Country Citizens Residing in the European Union and of EU Citizens Residing in Third Countries." Study requested by the European Parliament's Committee on Constitutional Affairs. European Parliament, 2013. [http://dspace.mah.se/dspace/bitstream/handle/2043/15950/IPOL-AFCO\\_ET\(2013\)474441\\_EN.pdf;jsessionid=0B2E1CC693DBBFC8AD63EB24BE395A49?sequence=2](http://dspace.mah.se/dspace/bitstream/handle/2043/15950/IPOL-AFCO_ET(2013)474441_EN.pdf;jsessionid=0B2E1CC693DBBFC8AD63EB24BE395A49?sequence=2)

<b>INCORPORATED COUN- TING</b>	Non-residents votes are incorporated into the broader voting totals without distinction and combined with those within the country into a local voting district with which the voter has a biographical connection.	Non-residents votes are incorporated into the broader voting totals without distinction and combined with those within the country into a local voting by a method different than biographical connection.	Non-residents' votes are incorporated into the voting totals without distinction and there are reserved seats divided into sub-regions of the world.	Non-residents votes are incorporated into the voting totals without distinction and there are reserved seats for migrant representatives disregarding the "region" or country they represent.
			Example: These two possibilities may apply where parties may designate a special migrant "representative" candidate in their lists. The special seats are occupied by parties who win most votes. Only if parties get enough votes as to occupy the designated migrant seats will their migrant rep. candidates be designated irrespective of where they stood in the list.	

**Mode of representation for national legislative elections (include references):**

**Mode of representation for regional legislative elections (include references):**

**Special Remarks in cases of eligibility for local legislative elections.**  
This residual question is only relevant for federal/highly decentralized states.  
**If emigrants are eligible for local legislative elections, explain the mode of representation:**

### VOTING BEHAVIOUR OF NON-RESIDENT CITIZENS

**We would like to know more about how non-resident citizens turnout in home elections. Please, try gathering data about the last national election (if possible).**

<b>ELECTION</b>	<b>INFORMATION</b>
National Presidential	Year last election: General Turnout: Non-resident citizen turnout: <i>Sources:</i>
National Legislative	Year last election: General Turnout: Non-resident citizen turnout: <i>Sources:</i>



Does the state promote the participation of emigrant voters in SO elections with a general campaign abroad? If yes, describe by which means, where, for how long, etc.

### **EXTERNAL VOTING IMPLEMENTATION**

**It may be possible that legal provisions for external voting exist, but they have never been implemented. Is this the case of the country?**

**In case that external voting has not been implemented, what are the reasons? For example, economic-related grounds, political grounds, judicial exceptions, lack of secondary legislation to regulate their organization, or simply that no elections have been celebrated since the approval of external voting:**

## **REGULATION OF POLITICAL COMPETITION**

### **PARTY OFFICES IN HOST COUNTRY**

**External political party offices are legally allowed:**

**Actual existence of permanent offices of home country parties abroad, targeting emigrants in order to capture funding for campaigns, political support etc.:**

**Countries where external party offices exist (by political party):**

**Do external political party offices in SR receive SO public funding?**

### **POLITICAL CAMPAIGNS**

**Is there a specific regulation for the political campaigns abroad? If yes, please specify in which ways it is different from regulations of electoral campaigns within the country. Note that campaigns abroad may be restricted in any of the following areas: a) sources of funding (public/private), b) organization, c) use of media, etc.**

**If campaigns abroad for home elections exist, where have they been conducted and by which parties?**

### **MEMBERSHIP**

**Is emigrant membership to home country political parties equal to membership of resident citizens or is it somehow restricted? Look especially at their internal candidacy rights for posts within the party. If restricted in any other way, say how:**

## INSTITUTIONAL PARTICIPATION

### CONSULTATIVE BODIES AT NATIONAL LEVEL

**Is there a consultative body of/for emigrant representation acting at the national level?**

**Is the consultation of such body structural or ad hoc (if structural, be precise about regularity and the conditions for the consultation)?**

**By whom is the consultative body composed?**

For example, members elected by emigrants or members appointed by associations of emigrants without state intervention/elected with state intervention; or members selected and appointed only by the state.

**Who holds the leadership of the consultative body?**

Chaired by participant (emigrant or emigrant association); co-chaired by participant and national authority, or chaired by national authority.

**Beyond consultation on policies affecting emigrants the body has the right of initiative to make its own reports or recommendations, even when not consulted:**

This right is included in both statutes and law; only in statutes or law; no right of initiative.

**Beyond consultation on policies affecting emigrants the body has the right to get a response from national authorities to its advice/recommendations:**

This right is specified in both statutes and law; only in statutes or law: no right to get a response.

**Existence of selection criteria to ensure representativeness** (by geographic or gender criteria, e.g. requirement to include both genders or/and to include emigrants in different countries):

## ADMINISTRATION

### CONSULATES

**Significant improvement of home country's consulate network.**

This question has a temporal dimension. To get a sense of changes over time, please try to find information on the **size** and **dispersion** of the consulate network in **1990, 2000, 2010**. You might need to consult/call/write the diplomatic personnel (and not only through the embassy but even in the foreign

ministry headquarters), since this relates to their administrative/operational structure. Try to get data on how many consulates and embassies there were in the world and where in those three years. Do not mix “regular” consulates with “honorary consulates”. Shall there be other (newer) kinds of consulates, describe what is new or different about them.

**Have consulates abroad adopted any of the following functions:**

- Expert legal/judicial consultancy,
- Financial consultancy,
- Psychological consultancy.

**To qualify as answer to this question these functions should be different from those you described for questions on economic, cultural, welfare, etc. policies (below or above), and from the regular functions of consulates.**

Address secondary literature, as well as diplomatic personal to answer this question.

## **HOME COUNTRY ADMINISTRATION**

**Creation of government administration for emigrant issues (creation of a directorate, agency or ministry). Include references:**

**Identify the rank in the hierarchical structure of public administration at which the body administering emigrant affairs operated in the present.**

If you do not find this chart helpful or have doubts, you can add a picture of the organizational chart (organigrama) that you find including the body for the administration of emigrant affairs.

## **ECONOMIC POLICIES**

### **REMITTANCES**

**Existence of a government program/strategy to attract remittances from emigrants (these also include special banking channels opened thanks to state intervention to facilitate transfers). Include references.**

PROGRAM	ADMIN. RESPONSIBLE	DESCRIPTION	REFERENCES

## INVESTMENT

**Government program/strategy to attract investments from emigrants (might include remittances, but programs included here are not designed primarily to “attract” remittances, but to invest them). Include references.**

PROGRAM	ADMIN. RESPONSIBLE	DESCRIPTION	REFERENCES

## BRAIN-CIRCULATION NETWORKS AND BRAIN GAIN PROGRAMS

**Register here any brain-gain policies, however they are called (i.e. “Ilegada de cerebros”, “ganancia de cerebros” or other names) as well as the development of networks that aim to build connections to share knowledge between emigrants and the home country (e.g. for example, scientific networks).**

PROGRAM	ADMIN. RESPONSIBLE	DESCRIPTION	REFERENCES

## RETURN POLICIES

**Recognition of academic and professional qualifications acquired in the SR:**

Please, try to find if there is direct recognition of academic or professional qualifications obtained in the ER. Also, describe this process (i.e. is there a specific agency in charge of the recognition of qualifications?

**How long could the recognition of academic and professional qualifications acquired in the SR take?**

Here we are interested in knowing if there is a maximum period of time in which the applications for recognition of academic and professional qualifications must be resolved by the government.

**Communication campaigns aiming to convince emigrants to return to home country:**

In order to qualify for this category, the campaigns must meet the following requirements:

- Be conducted directly by the home state or be funded totally or partially by the home state.
- It should imply a coordinate sort of actions. For example, the inclusion of a new section in a governmental web-site would not be considered standalone as an information campaign, but it would be if

the web-site is launched, for example, together with the elaboration of a video or the organization of meetings in consulates.

CAMPAIGN	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

### **Programs that aim to facilitate the re-integration of returnees in home society.**

In order to qualify in this category these policies should be somehow designed for return migrants as beneficiaries (i.e. not the same as those for the resident, non-mover population in the SO). These benefits may appear in the form of one-time transfers, skill-acquisition programs, or special support for opening businesses after return. We are interested in the particular sorts of benefits, so be precise. Bear in mind that we are interested mostly in SO policies or in bilateral policies developed together with particular SRs, but not in return policies offered solely by the SR:

PROGRAM	ADMIN. RESPONSIBLE	DESCRIPTION	REFERENCES

## **OBLIGATIONS**

**Military service:**

**Social civil service:**

**Taxes:**

Do emigrants have to pay taxes in home country? Are there specific taxes for emigrants?

## **CULTURAL POLICIES**

**Cultural centers abroad managed and funded by the SO:**

**Existence of cultural promotion offices within consulates (i.e. “Casa de la cultura”, “Casa ecuatoriana” etc.):**

**Cultural programs implemented by the state abroad:**

PROGRAM	ADMIN. RESPONSIBLE	DESCRIPTION	REFERENCES

## EXIT AND TRANSIT POLICIES

**Mobility restrictions for citizens who want to go abroad (political, fees...):**

### **Information campaigns to discourage emigration:**

In order to qualify for this category, the campaigns must meet the following requirements:

- Be conducted directly by the home state or be funded totally or partially by the home state.
- It should imply a coordinate sort of actions. For example, the inclusion of a new section in a governmental web-site would not be considered standalone as an information campaign, but it would be if the web-site is launched together with the elaboration of a video or the organization of meetings in consulates.

CAMPAIGN	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

### **Information campaigns to promote a safe transit to the destination country:**

In order to qualify for this category, the campaigns must meet the following requirements:

- Be conducted directly by the home state or be funded totally or partially by the home state.
- It should imply a coordinate sort of actions. For example, the inclusion of a new section in a governmental web-site would not be considered standalone as an information campaign, but it would be if the web-site is launched together with the elaboration of a video or the organization of meetings in consulates.

CAMPAIGN	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

### **Information campaigns to inform citizens thinking of leaving the home country or already leaving in another country about the citizen rights and duties they enjoy despite being abroad.**

In order to qualify for this category, the campaigns must meet the following requirements:

- Be conducted directly by the home state or be funded totally or partially by the home state.
- It should imply a coordinate sort of actions. For example, the inclusion of a new section in a governmental web-site would not be considered standalone as an information campaign, but it would be if the web-site is launched together with the elaboration of a video or the organization of meetings in consulates.

CAMPAIGN	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

## SOCIAL POLICIES

### **Possibility of maintaining employment benefits after emigrating to another country:**

Do emigrants have access to employment benefits in the same conditions as the resident citizens or they have an specific program for employment benefits?

### **Possibility of maintaining retirement benefits once emigrated to another country:**

Is there a constraint in the number of years of residence abroad to retain entitlement?

Do emigrants have access to retirement benefits in the same conditions as the resident citizens or they have an specific program?

### **Possibility of maintaining health care benefits once emigrated to another country:**

Do emigrants have access to healthcare benefits in the same conditions as the resident citizens or they have an specific program for employment benefits?

### **Education programs for emigrants (administered through consular network or other agencies):**

PROGRAM	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

## SYMBOLIC POLICIES

### Awards for emigrants:

It is especially important to report what is the institution that organizes the awards and how regularly are celebrated.

AWARD NAME	INSTITUTION	TARGET	REFERENCES

### Governmental communication campaigns – targeting citizens abroad – which main goal is reinforcing the sentiment of belonging to the SO, nation or home community:

In order to qualify for this category, the campaigns must meet the following requirements:

- Be conducted directly by the home state or be funded totally or partially by the home state.
- It should imply a coordinate sort of actions. For example, the inclusion of a new section in a governmental web-site would not be considered standalone as an information campaign, but it would be if the web-site is launched together with the elaboration of a video or the organization of meetings in consulates.

CAMPAIGN	ADMIN. RESPONSIBLE	ACTIONS INCLUDED	REFERENCES

### Conferences of emigrants organized by government or emigrant associations (register which conferences, how regular, organized by whom):

### Celebration of a “Day of the diaspora”:

Celebration day for the emigrant community funded total or partially by the home state:

### Reference to emigrants in the Constitution:

### Creation of new symbolic territorial entities:



## LIST OF EXPERTS

Name	
Expertise	
List of relevant publications	
Affiliation	
e-Mail	
Telephone	

## APPENDIX I: GENERAL INFORMATION

## APPENDIX II: LIST OF EMIGRANT ORGANIZATIONS

Name	
Host Country	
Short description	
Size	
Contact person	
e-Mail	
Telephone	

## APPENDIX III: GRAPHIC MATERIAL

## REFERENCES

*[End of the data collection tool]*

EDICIÓN ESPECIAL FLACSO-CHILE

# Emigrant Policies in Latin America and the Caribbean

LUICY PEDROZA  
PAU PALOP  
BERT HOFFMANN



Nation-states are no longer contained by their borders. In times of mass migration and ever more dense transnational networks, states of all sizes and all migration profiles reach out to their emigrated citizens in wholly new ways. The variety of policies that target emigrants (“emigrant policies”) is so vast that it seems to have become a new state function. For example, it is well known that states are expanding citizen participation beyond the nation’s boundaries through voting rights and new modalities of representation and that they are opening channels for remittance transfer and offering specific investment opportunities to returning emigrants. However, other, less studied emigrant policies, comprise the symbolic incorporation of emigrants into the nation-state (e.g. through awards celebrating emigrants’ achievements); social service provisions for non-residents (e.g. health and education); and the institutional inclusion of emigrants in consultative bodies, to name just a few.

This book is the first to systematically take stock of the emigrant policies in place across 22 Latin American and Caribbean countries, as of 2015. By covering an entire geographical region and being based on rigorous data-collection, this will be a reference in a literature that has so far centered on a few specific cases. Also, our proposed definition of “emigrant policies” encompasses a wide range of policies that are aimed at emigrants beyond the “usual suspects” analyzed in the extant literature (electoral, citizenship, and economic policies), resulting in 12 different dimensions. This survey of such a broad sample of countries and policy dimensions will allow researchers to theorize and make comparisons on models of emigrant policy on a solid empirical and conceptual base.

This effort is a result of a three-year research project carried out by a team of researchers at the Institute of Latin American Studies within the German Institute of Global and Area Studies (GIGA), and funded by the German Research Foundation (DFG).

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